

BEFORE THE BOARD OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES

IN AND FOR THE STATE OF UTAH

IN THE MATTER OF THE PETITION BY THE DIVISION OF OIL,  
GAS AND MINING FOR AN ORDER: (1) TO WITHDRAW NOI  
M/039/013 FOR B&C LIMESTONE QUARRY; (2) TO FORFEIT  
LETTER OF CREDIT NO. 015413040 FROM FAR WEST BANK, TO  
DIRECT THE DIVISION TO COMPLETE RECLAMATION AND TO  
AUTHORIZE A CIVIL SUIT TO RECOVER COSTS FROM BRYCE HAAS;  
AND (3) TO TAKE ALL OTHER ACTIONS NECESSARY TO RECLAIM  
THE LANDS AT S1/2SW1/4, S32, T18S, R1E, SLB&M, AND LOTS  
3 & 4, N1/4, S5, T19S, R1E, SLB&M, SANPETE COUNTY, UTAH.

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DOCKET NO. 2010-028 CAUSE NO. M/039/013  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

TAKEN AT: DEPARTMENT OF NATURAL RESOURCES  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84116

DATE: January 26, 2011

TIME: 9:19 a.m. to 11:18 a.m.

REPORTED BY: Jeff S. Eaton, RPR/CSR

ATKINSON-BAKER, INC. COURT REPORTERS  
500 North Brand Boulevard, Third Floor  
Glendale, California 91203  
800-288-3376

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A P P E A R A N C E S

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John Rogers, Associate Director, Oil and Gas  
Jim Springer, Public Information Officer  
Steve Schneider, Administrative Policy Coordinator  
Julie Ann Carter, Secretary to the Board

ASSISTANT ATTORNEYS GENERAL:

Steven F. Alder - Division Attorney  
Michael S. Johnson - Board Attorney  
Emily E. Lewis - Division Attorney

FOR B&C LIMESTONE QUARRY:

BRYCE HAAS, PRO SE

ALSO PRESENT:

John Blake, SITLA  
Lynn Kunzler, Sr. Reclamation Biologist, Minerals  
Paul B. Baker, Reclamation Biologist, Minerals

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P R O C E E D I N G S

JANUARY 26, 2011 9:19 a.m.

CHAIRMAN JOHNSON: Good morning. Welcome everybody to the January 2011 hearing of the Utah Board of Oil, Gas and Mining.

We will be starting the formal part of our agenda this morning with Docket No. 2010-028, Cause No. M/039/013, in the matter of the petition by the Division of Oil, Gas and Mining for an order: No. 1, to withdraw NOI M/039/013 for B&C Limestone Quarry; No. 2, to forfeit letter of credit No. 015413040 from Far West Bank, to direct the Division to complete reclamation and to authorize a civil suit to recover costs from Bryce Haas; and, 3, to take all other actions necessary to reclaim the land at the south half of the southwest quarter, section 32, township 18 south, range 1 east

1 Salt Lake Base and Meridian, and lots 3 and 4 northwest  
2 quarter, section 5, township 19 south, range 1 east,  
3 Salt Lake Base and Meridian, Sanpete County, Utah.

4 MS. LEWIS: We're having technical difficulty.

5 CHAIRMAN JOHNSON: We're out of order. Let me  
6 get to the get part of my book here. Sorry.

7 Okay. There it is. Okay. Ms. Lewis, you're  
8 representing the Division in this matter?

9 MS. LEWIS: Yes.

10 CHAIRMAN JOHNSON: Okay. And, Mr. Haas?  
11 Bryce Haas?

12 MR. HAAS: Yes.

13 CHAIRMAN JOHNSON: And you're representing  
14 yourself --

15 MR. HAAS: Correct.

16 CHAIRMAN JOHNSON: -- this morning?

17 Okay. Ms. Lewis, would you, please, go ahead?

18 MS. LEWIS: All right. The Division comes  
19 before you today to request the board to authorize  
20 several actions necessary to complete the reclamation of  
21 B&C Limestone Quarry.

22 I will quickly -- before delving into the  
23 substance of the hearing, I'd like to inform the board  
24 that Mr. Haas, Respondent, has a long history with the  
25 both the Division and our sister agency SITLA.

1       Consequently, in balance for an opportunity for the  
2       Respondent to be heard, the Division seeks the board's  
3       support in limiting the scope of the hearing to solely  
4       and freely request detail of the Division's satisfaction  
5       and those requests are: 1, to withdraw NOI M/039/013  
6       for the B&C Limestone Quarry; 2, to forfeit the letter  
7       of credit, No. 015413040; direct the Division to  
8       complete reclamation, and to authorize a civil suit to  
9       recover costs from Bryce Haas; and, 3, take all actions  
10      necessary to reclaim the disturbed land.

11               We seek these above actions of the board  
12      because I know Utah -- under the Utah Mine Reclamation  
13      Act, the board and the Division are the proper  
14      enforcement authority. Consequently, it is the  
15      division's duty to the public to ensure reclamation,  
16      defined as actions to shape, stabilize, revegetate or  
17      treat the land affected in order to achieve a safe,  
18      stable ecological condition and uses to be considered  
19      with local environmental conditions.

20               So a brief history of the matter may be  
21      helpful for the board to give necessary context and  
22      focus for the substance of the hearing. In July 1999,  
23      Respondent listed himself as operator, submitted and the  
24      Division approved a notice of intention for small mining  
25      operations, S/039/013. This NOI held Respondent

1 personally liable for completing the designated  
2 operation and reclamation practices.

3 During this time the Respondent also entered a  
4 series of mineral leasing agreements with the landowner  
5 leaving him personally liable for completing reclamation  
6 in compliance with all Division rules and regulations.

7 In 2001 Respondent expanded his operation  
8 beyond the five acres of the limited -- five-acre limit  
9 of the small mining operation entered interim,  
10 transitional reclamation contract to govern the mine  
11 while he prepared a large mine operation permit  
12 application. This transitional contract held Respondent  
13 personally liable for completing reclamation of his  
14 operation, B&C Limestone Quarry. An official large mine  
15 permit application was submitted, interviewed by the  
16 Division, but never approved as final due to a lack of  
17 surety to cover the extent of the larger operation.  
18 Consequently, the transitional reclamation contract  
19 governs the operation today.

20 And these are just a few photos of the site  
21 taken by SITLA last fall to give you an idea of the  
22 condition of the site.

23 Between 2006 and 2010, the Division  
24 representatives conducted about 17 inspections of the  
25 B&C Limestone Quarry to monitor Respondent's reclamation

1 activities. In addition to the length of the original  
2 mineral leases, during this time, SITLA provided the  
3 Respondent with four distinct opportunities to access  
4 the land to complete reclamation, in total providing the  
5 Respondent with three-and-a-half years to complete the  
6 work.

7 In March of 2010, the final Division  
8 inspection confirmed the Respondent failed to  
9 substantially conduct reclamation as required by Utah  
10 law. A November inspection cataloged the state of the  
11 quarry and the outstanding reclamations actions needed  
12 to bring the quarry into compliance. Consequently, to  
13 install the reclamation goals of the Utah Mine Land Act,  
14 the Division respectfully presents the following  
15 evidence in support of its three requests.

16 At this time the Division would like to swear  
17 in our primary witness, and I'd like to offer my  
18 exhibits at the end.

19 CHAIRMAN JOHNSON: Go ahead. Who is your  
20 primary witness?

21 MS. LEWIS: Our primary witness is Paul Baker.

22 CHAIRMAN JOHNSON: Mr. Baker, can we swear you  
23 in, please?

24 MR. BAKER: Yes.

25 PAUL BAKER,

1       called as a witness on behalf of the Division, being  
2       duly sworn, was examined and testified as follows:

3               MR. BAKER:   I do.

4               CHAIRMAN JOHNSON:   Ms. Lewis, Mr. Baker will  
5       be testifying as a fact witness today?

6               MS. LEWIS:   As a fact witness, yes.

7               CHAIRMAN JOHNSON:   Okay.

8               MS. LEWIS:   What is your name and position  
9       with the Division of Oil and Gas and Mining?

10              MR. BAKER:   My name is Paul Baker and my  
11       position is minerals program manager.

12              MS. LEWIS:   Could you please explain to the  
13       board what your relevant educational and employment  
14       background is?

15              MR. BAKER:   I have a bachelor's degree in  
16       botany from Weber State College in 1982.   I have a  
17       master's degree in --

18              THE REPORTER:   In what?   A degree in what?

19              MR. BAKER:   My first degree is a bachelor's in  
20       botany from Weber State College in 1982, and I have a  
21       master's degree in range ecology from Utah State  
22       University in 1988.

23              I began working for the State of Utah in 1986  
24       at the Department of Agricultural in the seed  
25       laboratory.   I started working for the Division in 1991



1 in the coal regulatory program and I began with the  
2 minerals regulatory program in 2001 and became minerals  
3 program manager in 2008.

4 MS. LEWIS: Would you please briefly explain  
5 to the board what the minerals program manager does in  
6 relation to the process of land?

7 MR. BAKER: We, of course, regulate for  
8 environmental compliance. We inspect mine sites to  
9 ensure that operations are being conducted in accordance  
10 with the rules. We ensure that reclamation is being  
11 done properly. Those are our primary responsibilities.

12 MS. LEWIS: At this time, the Division would  
13 like to turn to its first request. The withdrawal NOI  
14 M/039/013 of the B&C Limestone Quarry.

15 Mr. Baker, under the Division rules and  
16 statutes, what do you understand the elements the  
17 Division must demonstrate to the board to terminate an  
18 operator's notice of intention?

19 MR. BAKER: As it says on the slide from the  
20 Utah Code the -- the Division needs to -- or the board  
21 needs to find that the operator has substantially failed  
22 to perform reclamation or to conduct mining operations  
23 so that the approved reclamation plan can be  
24 accomplished.

25 MS. LEWIS: Now, let me show you this document

1       marked as Exhibit A. Are you familiar with this  
2       document?

3               MR. BAKER: Yes, I am. This is the  
4       transitional reclamation contract that was entered into  
5       between Mr. Haas and the Division. On the left is the  
6       cover page and on the right is the signature page from  
7       Mr. Haas.

8               MS. LEWIS: And is the -- the document signed  
9       by the Respondent?

10              MR. BAKER: Yes, it is.

11              MS. LEWIS: If so, when and why was Exhibit A  
12       entered and what impact does it have on the Respondent's  
13       reclamation obligations?

14              MR. BAKER: It was entered into in 2001 and,  
15       as you explained earlier, what -- what had happened was  
16       the operator submitted notice of intention to commence  
17       small mining operations or an SMO, and the operator  
18       exceeded the acreage that was allowed under an SMO, the  
19       five acres.

20              And since it takes some time to prepare and to  
21       approve a notice of intention to commence large meaning  
22       operations or an LMO, the Division entered this  
23       agreement with Mr. Haas for the interim period and so  
24       basically what -- what happens is this transitional  
25       reclamation contract becomes, in effect, the LMO until

1 the LMO is approved.

2 MS. LEWIS: All right. And you can see under  
3 paragraph 5 that the -- the contract is still -- is  
4 still in effect.

5 Could you please read paragraph 6 in the  
6 transitional reclamation contract?

7 THE REPORTER: I'm sorry, Counsel. I can't  
8 hear you. Can we get the microphones turned up a  
9 little?

10 MS. LEWIS: Mr. Baker, could you please read  
11 paragraph 6 of the transitional reclamation contract and  
12 explain its meaning to the board?

13 MR. BAKER: Paragraph 6 says, "The operator  
14 agrees to indemnify and hold harmless the State, board,  
15 and the Division from any claim, demand, liability,  
16 cost, charge, suit, or obligation of whatsoever nature  
17 arising from the failure of operator or operator's  
18 agents, employees, or contractors to comply with the  
19 contract."

20 And so, basically -- I mean, as it says the --  
21 the operator has indemnified the Division against any  
22 objections, the Division's enforcement of the  
23 reclamation contract such as any time restrictions. And  
24 considering these factors, the transitional reclamation  
25 contract represents, really, a revision of the small

1       mine notice and as -- is an equivalent governing  
2       document within the spirit of the withdrawal statute  
3       that is in the -- the act.

4               MS. LEWIS: And referring --

5               CHAIRMAN JOHNSON: Ms. Lewis, excuse me just a  
6       minute. Let's clarify what document it is we're talking  
7       about.

8               MS. LEWIS: It's --

9               CHAIRMAN JOHNSON: You call this Exhibit A?

10              MS. LEWIS: Uh-huh.

11              CHAIRMAN JOHNSON: Exhibit A is not what is  
12       on -- projected on the screen, is it?

13              MS. LEWIS: It is. It just is the pertinent  
14       sections are taken out. If you go back to the --

15              CHAIRMAN JOHNSON: Okay. Did the board get  
16       copies of Exhibit A?

17              MR. QUIGLEY: Yes. What's been marked as  
18       Exhibit A.

19              MR. JENSEN: Yes. It's in the list of  
20       exhibits.

21              CHAIRMAN JOHNSON: Okay. So that was a  
22       hand-out this morning?

23              MS. LEWIS: Yeah, it -- it was. Excuse me.

24              CHAIRMAN JOHNSON: And what you are projecting  
25       on the screen, that is an excerpt from Exhibit A?

1 MS. LEWIS: Yes. It's the pertinent or  
2 relevant paragraphs of the document.

3 CHAIRMAN JOHNSON: All right. Thank you.

4 MS. LEWIS: Referring to the transitional  
5 reclamation contract preamble, paragraphs 1 and 4, as  
6 well as the reclamation obligations incorporated from  
7 the existing SMO, in your opinion, Mr. Baker, does the  
8 transitional reclamation contractually obligate  
9 Respondent to satisfactorily perform reclamation of the  
10 quarry?

11 MR. BAKER: Yes, it does. As -- as it says in  
12 all of these sections, "The operator agrees to conduct  
13 reclamation.

14 MS. LEWIS: Could you please describe for the  
15 board what these reclamation obligations are?

16 MR. BAKER: Well, I think the board is -- is  
17 pretty much familiar with what's involved with  
18 reclamation but in this case the operator would need to  
19 demolish any structures and regrade the site, remove any  
20 -- anything that might be a hazard to the environment or  
21 to public health or safety, and leave the site in an  
22 ecologically stable condition, respread topsoil, if  
23 that's available and to revegetate the site.

24 MS. LEWIS: And how does that Division make a  
25 determination under Utah Code 48-16-2 that an operator

1       has substantially failed to reclaim the land?

2               MR. BAKER: Well, of course, we give an  
3       operator a reasonable amount of time to conduct  
4       reclamation. And we conduct periodic inspections. We  
5       have an inspection and enforcement program and as -- as  
6       you mentioned, we've done several inspections over the  
7       last few years to document reclamation as it was being  
8       conducted or as it was not being conducted, to -- to see  
9       what progress was being made.

10              And if operations or reclamations are not  
11       being done in compliance with the rules, we have the  
12       option of issuing notices of violation or cessation  
13       orders.

14              MS. LEWIS: And were these inspections and  
15       enforcement procedures complied with the B&C Limestone  
16       Quarry and, if so, how -- how is it that you're familiar  
17       with these inspections and the state of the property?

18              MR. BAKER: Yes, they were applied and -- as  
19       supervisor of the program, minerals program, I review  
20       all of the inspection reports. So I'm -- and I have  
21       visited the site, as well, so I am familiar with what's  
22       happened.

23              MS. LEWIS: Could you please explain to the  
24       board what the document marked as Exhibit B on the  
25       screen is?

1                   MR. BAKER: Exhibit B is a -- a summary of the  
2                   inspections that have been done or the inspection  
3                   reports have been written from 2006 through 2010.

4                   MS. LEWIS: Are you familiar with Exhibit B  
5                   and can you confirm you assisted in its preparation and  
6                   it's an adequate representation and summary of the  
7                   inspections completed?

8                   MR. BAKER: I am familiar, yes, and it is a  
9                   good summary of -- of the inspection reports or the  
10                  comments that were made in the inspection reports.

11                  MS. LEWIS: Just the -- the following section  
12                  will be talking specifically about outstanding actions  
13                  needing to occur. There will be some photos if you'd  
14                  like to see them, and those were taken by SITLA in the  
15                  fall of this year so just for your knowledge about the  
16                  state of the study.

17                  Can you please summarize for the board the  
18                  findings of these inspections and, also, would you  
19                  please explain the nature and order of the photos to be  
20                  displayed?

21                  MR. BAKER: I think in general what I could  
22                  say about the inspections is that beginning at about  
23                  2005 or 2006, Mr. Haas was -- was doing reclamation and  
24                  had torn down most of the buildings and had done some  
25                  regrading. But starting in about 2008 or so, the -- the

1 progress of the reclamation slowed and ultimately ceased  
2 to where the site is -- is not fully reclaimed.

3 As I said, the buildings have been taken down  
4 but the foundations are still there. There's still  
5 several piles of material that need to be graded out.  
6 There's a well, a water well that needs to be taken care  
7 of. There's also a storage tank that's a potential  
8 problem. Potentially somebody could -- could fall into  
9 that and we're concerned about that. So there are some  
10 hazards.

11 There's also an area where some of the  
12 material was partially buried and we're a little  
13 concerned about what -- what all might be there. Some  
14 of the -- the debris from demolition has been buried,  
15 but we don't know what else might be there, as well.

16 MS. LEWIS: And would you please explain to  
17 the board what Exhibit C consists of?

18 MR. BAKER: Exhibit C is a map of the  
19 disturbed area and there are some areas that have been  
20 reclaimed. I believe it's about 12.6 -- well, 12 acres,  
21 approximately, that's been regraded and about 16 acres  
22 that remains to be regraded.

23 MS. LEWIS: Taking all the statutes and  
24 evidence presented here into consideration, what is your  
25 opinion about the Respondent's reclamation with B&C



1 Limestone Quarry?

2 MR. BAKER: It is not complete. That's --  
3 that's the bottom line is that we feel that we've given  
4 him every opportunity to conduct the reclamation and it  
5 hasn't been completed.

6 MS. LEWIS: The Division would now like to  
7 turn to its second request, just a brief note on this  
8 request. This request is really three separate  
9 requests, it just provides the Division with all the  
10 necessary tools to actually complete reclamation so  
11 it'll be a couple different subparts of it.

12 What do you understand -- so per Division's  
13 request No. 2, we're requesting a letter to forfeit, No.  
14 015413040, to direct the Division to complete  
15 reclamation and to authorize a civil suit to recover  
16 costs from Bryce Haas.

17 Mr. Baker, what do you understand the  
18 Division's rules or statutes require the board to  
19 forfeit a letter of credit for surety?

20 MR. BAKER: Well, the board needs to make a  
21 finding that the operator has failed to substantially  
22 complete reclamation and then to forfeit the surety and  
23 then order the board -- or order the Division to conduct  
24 reclamation using the funds from the surety.

25 MS. LEWIS: Okay. And, Mr. Baker, could you

1       please explain to the board the document marked as  
2       Exhibit D? D, not C, but D.

3               MR. BAKER: Exhibit D is the letter of credit  
4       that was issued to Mr. Haas by Far West Bank and it was  
5       being held hence the reclamation surety.

6               MS. LEWIS: And could you please explain to  
7       the board the current status of this letter of credit  
8       and what exactly the Division is requesting of the board  
9       in regards to it?

10              MR. BAKER: Earlier -- earlier in 2010 we  
11       received notice from the bank that this letter of credit  
12       was not going to be renewed and so we -- the Division  
13       submitted a side draft to the bank asking that they --  
14       they, the funds -- give the funds to the Division, which  
15       they did.

16              The Division received a check on October 21st,  
17       2010, in the amount of \$36,000 from the bank and that --  
18       that money is basically being held in escrow at this  
19       point pending the board's action.

20              MS. LEWIS: As discussed above, in your  
21       opinion, has the Respondent substantially failed to  
22       reclaim the B&C Limestone Quarry and, therefore, is the  
23       board warranting -- warranted in ordering this letter of  
24       credit forfeited?

25              MR. BAKER: Yes, I believe that's correct that

1       reclamation -- he has substantially failed to complete  
2       reclamation and that the board should forfeit the  
3       surety.

4               MS. LEWIS: This is our second tool we're  
5       asking for in our request for request 2.

6               MR. JENSEN: May I ask a question?

7               CHAIRMAN JOHNSON: Mr. Jensen.

8               MR. JENSEN: Counsel, if the -- if the bank  
9       has tendered payment, the letter of credit doesn't exist  
10      anymore, does it?

11              MS. LEWIS: It -- when we first presented the  
12      notice of agency action in October, we had not presented  
13      the site draft yet for the credit -- letter of credit.  
14      So we are kind of asking that since we already have the  
15      money, that the board authorize that we actually access  
16      it and use it. So -- if I understand the question  
17      correctly.

18              MR. JENSEN: It seems to me the issue is the  
19      ability to now get at the money, which you have. I  
20      would be surprised that that letter of credit still  
21      exists anywhere. I think that in order for the bank to  
22      make the payment, you'd have to tender the letter of  
23      credit to the bank and they'd issue you a cashier's  
24      check.

25              So I think just procedurally, I don't think

1       there's anything to forfeit today. I think what the  
2       issue -- or the -- the issue is is approval to get at  
3       the funds, which are now held in escrow by the Division.

4               MS. LEWIS: Yeah. Yes, I think that would be  
5       an accurate description of what's occurring.

6               MR. JENSEN: Okay. Thank you.

7               MS. LEWIS: Uh-huh.

8               So what do you understand the Division's rules  
9       or statutes require the board to direct the Division to  
10      conduct reclamation?

11              MR. BAKER: Well, as I said earlier, if the  
12      operator fails or refuses to conduct reclamation -- the  
13      rules state that if the operator fails or refuses to  
14      conduct reclamation, then the board may order that  
15      reclamation be \*\*\* completed by the Division.

16              MS. LEWIS: And as discussed above, in your  
17      opinion, the Respondent failed to, substantially, to  
18      reclaim the B&C Limestone Quarry and the board is,  
19      therefore, warranted in ordering the Division --  
20      directing the Division to conduct reclamation?

21              MR. BAKER: Yes, that's correct.

22              MS. LEWIS: Mr. Baker, what do you understand  
23      the Division's rules or statutes required the board to  
24      authorize the Division to pursue a civil action against  
25      Bryce Haas to collect the surety, any costs not

1       recovered by the -- not covered by the surety?

2               MR. BAKER:  As it -- as it states in the  
3       slide, Rule R647-4-114, it says, "If the operator fails  
4       or refuses to conduct reclamation, the board may, after  
5       noticing the hearing, order that the costs and expenses  
6       of reclamation together with the costs of collection,  
7       including attorneys' fees, be recovered in a civil  
8       action brought by the Attorney General against the  
9       operator in the appropriate court."

10              MS. LEWIS:  And has Mr. Haas entered any  
11       documents establishing personal liability for the amount  
12       of the surety and any additional costs incurred by --  
13       incurred in reclamation of the quarry?

14              MR. BAKER:  As we -- we discussed earlier, we  
15       have the transitional reclamation contract, which is his  
16       agreement that he would conduct reclamation.

17              MS. LEWIS:  And, also, would you, please, read  
18       paragraph 11?

19              MR. BAKER:  Paragraph 11 says, "In the event  
20       of forfeiture of the surety, operator shall be liable  
21       for any additional costs in excess of the surety amount  
22       which are required to comply with this contract.  Any  
23       excess moneys resulting from forfeiture of the surety  
24       upon completion of the reclamation in compliance with  
25       this contract shall be returned to the claimant."

1 MS. LEWIS: And in your opinion do you feel  
2 that there may be costs beyond the surety which the  
3 Division should pursue?

4 MR. BAKER: I -- I -- we don't know exactly  
5 how much reclamation's going to cost. Certainly, we  
6 don't know that until reclamation occurs. But there are  
7 several things that -- well, first of all, \$36,000 is  
8 not a lot of money for reclaiming 16 acres including  
9 some of the things like breaking up foundations,  
10 covering the well or taking care of the well and the  
11 water tank.

12 In addition, there could be things on site  
13 that we're not aware of. So it's -- we -- to be honest,  
14 we don't know whether we can do it for that much. But  
15 it's very possible that there could be additional costs,  
16 I think likely.

17 MS. LEWIS: The Division would now like to  
18 present its third request.

19 CHAIRMAN JOHNSON: Ms. Lewis, before you move  
20 on --

21 MS. LEWIS: Uh-huh.

22 MR. HAROUNY: Is -- is the site being used  
23 right now by Mr. Haas in any way?

24 MR. BAKER: No, it's not.

25 MR. HAROUNY: And we don't have an estimate of

1           how much it's going to cost to -- to do this, correct?

2           MR. BAKER: We -- we've have made an attempt  
3           at -- at calculating what the costs would be. But --  
4           but, like I say, it's not -- it's -- the figure that we  
5           have is a little bit more than 36,000, I think it was  
6           like 38,000. But, as I said, there could be things that  
7           we encounter that could bring it to a greater amount  
8           than that.

9           MR. HAROUNY: Has Mr. Haas submitted any kind  
10          of proposals or anything to you at all?

11          MR. BAKER: No. In fact, at this point, this  
12          is land that's owned by the Trust Lands Administration  
13          and John Blake can go into this in more detail, but he's  
14          been prohibited from entering the property.

15          MS. LEWIS: And we can discuss that if you'd  
16          like, as well. There are rebuttal witnesses after  
17          Mr. Haas has an opportunity to present. So --

18          CHAIRMAN JOHNSON: Excuse me, Ms. Lewis.

19          MS. LEWIS: Uh-huh.

20          MR. HAROUNY: So -- so if he's prohibited, he  
21          can't -- to enter the property, he can't even get an  
22          estimate of how much it's going to cost him to -- to  
23          reclaim the property, correct?

24          MR. BAKER: Well, I guess that may -- that may  
25          be true, yes.

1 MR. HAROUNY: Okay.

2 MS. LEWIS: He -- we -- just one second. Can  
3 I confer with my client?

4 I feel like this may be addressed after  
5 Mr. Haas's presentation and we have John Blake from  
6 SITLA to address those issues, as well.

7 MR. HAROUNY: Okay. Thank you.

8 CHAIRMAN JOHNSON: Mr. Baker, I've got a  
9 couple of questions. How is the figure \$36,000 arrived  
10 at?

11 MR. BAKER: To be honest, I don't know the  
12 history of that. It was done in 2001 and the  
13 disturbance area was less than it is now. I haven't  
14 looked at the actual calculations so I don't know. I  
15 assume that one of the engineers looked at the site and  
16 did a site-specific calculation but, like I said, I  
17 didn't look at that.

18 MS. LEWIS: We do have a representative of the  
19 Division that can answer that question if you'd like to  
20 have him sworn in.

21 CHAIRMAN JOHNSON: Are you planning to have  
22 Mr. Kunzler testify later?

23 MS. LEWIS: I was planning on having him be a  
24 rebuttal witness.

25 CHAIRMAN JOHNSON: Okay. I'll -- I'll wait --



1 a rebuttal witness?

2 MS. LEWIS: Yes. So after Mr. Haas's  
3 presentation both Lynn Kunzler and also Mr. Baker can  
4 answer any specific questions about reclamation --  
5 outstanding reclamation obligations or the original  
6 amount of the surety, the -- the cost of that.

7 CHAIRMAN JOHNSON: Okay. So I would like to  
8 understand where the \$36,000 figure came from at this  
9 time so --

10 MS. LEWIS: Okay.

11 CHAIRMAN JOHNSON: -- if you don't mind  
12 swearing Mr. Kunzler and having him address that, I  
13 would appreciate it.

14 MS. LEWIS: Certainly. At this time I'd like  
15 to swear in Lynn Kunzler from the Division of Oil Gas  
16 and Mining.

17 LYNN KUNZLER,  
18 called as a witness on behalf of the Division, being  
19 duly sworn, was examined and testified as follows:

20 MR. KUNZLER: I do.

21 THE REPORTER: Thank you. Can we turn up that  
22 mic?

23 MR. KUNZLER: To answer that question, at the  
24 time it was discovered that he had gone over the acreage  
25 for a small mining operation --

1                   CHAIRMAN JOHNSON: And you say, "at the time,"  
2                   when would that be?

3                   MR. KUNZLER: That was approximately 2001.

4                   CHAIRMAN JOHNSON: So he exceeded five acres?

5                   MR. KUNZLER: Yes, he had exceeded the five  
6                   acre for a small mining operation. We took the amount  
7                   of acreage that was disturbed at that time and applied  
8                   an average cost per acre that we were using for a small  
9                   mine bonding, multiplied it out and that's where we come  
10                  up with the 36,000.

11                  CHAIRMAN JOHNSON: At that time about how many  
12                  acres had been disturbed?

13                  MR. KUNZLER: Approximately eight acres.

14                  CHAIRMAN JOHNSON: Eight acres. So roughly  
15                  that's \$4500 per acre, is that the figure being used?

16                  MR. KUNZLER: Yes.

17                  CHAIRMAN JOHNSON: Okay. Isn't it common  
18                  practice that -- that the -- the bond amount would be  
19                  reviewed on a periodic basis and increased if the  
20                  circumstances have changed or the amount of disturbed  
21                  area has changed?

22                  MR. KUNZLER: Yes, it is. And --

23                  CHAIRMAN JOHNSON: Was that done in this case?

24                  MR. KUNZLER: This was a -- an interim surety  
25                  in this case and after we had reviewed the large mining

1 operation, we had calculated a bond that was  
2 considerably higher. It was --

3 CHAIRMAN JOHNSON: Higher than the 36,000?

4 MR. KUNZLER: Yeah, it was close to 68,000 to  
5 reclaim the site and what he had proposed in the large  
6 mining operation.

7 CHAIRMAN JOHNSON: Okay. So was the bond  
8 increased or did the Division attempt to increase the  
9 bond at that time?

10 MR. KUNZLER: We attempted to increase it.  
11 Mr. Haas met with the Division at that time. He could  
12 not come up with the additional moneys. Agreements  
13 were -- were made to try to work out doing either  
14 partial reclamation or giving us additional moneys on a  
15 schedule to increase the bond so that the bond amount  
16 would match the liability for reclamation. But that  
17 never happened.

18 MR. BAKER: I can answer the mystery.

19 CHAIRMAN JOHNSON: Mr. Baker.

20 MR. BAKER: Mr. Haas submitted an LMO in 2001  
21 and the Division issued tentative approval in 2003. At  
22 that time we required the surety of \$68,400. We had the  
23 36,000, we required 68,400. After about a year of not  
24 receiving the bond, we withdrew the tentative approval  
25 and after a series of meetings, Mr. Haas agreed to

1       reclaim part of the area, and we -- part of that  
2       agreement was that we would receive an extra \$6500 in  
3       bond, which we never did. But -- but he -- he did  
4       reclaim part of the area.

5               CHAIRMAN JOHNSON: Mr. Baker, looking at  
6       Exhibit C, which is the map of the disturbed area,  
7       there's an unclaimed quarry area and then there's a  
8       reclaimed area that are pictured.

9               MR. BAKER: Yes.

10              CHAIRMAN JOHNSON: Okay. So the area that you  
11       say Mr. Haas reclaimed, that's what's indicated, it's  
12       the south part of this property?

13              MR. BAKER: Yes, that's correct.

14              CHAIRMAN JOHNSON: And just eyeballing it, is  
15       that about 40 percent of the total disturbed area?

16              MR. BAKER: I'd say that's about right, yes.

17              CHAIRMAN JOHNSON: Okay. The -- the  
18       unclaimed -- the unreclaimed quarry area, how many acres  
19       is that?

20              MR. BAKER: So I believe that's about 16  
21       acres.

22              CHAIRMAN JOHNSON: Sixteen acres that are  
23       still unreclaimed.

24              MR. QUIGLEY: It's shown on that map.

25              CHAIRMAN JOHNSON: Oh, okay. It's in the

1       legend, 16.07.

2               MR. BAKER:   Yes.   Right.

3               MS. LEWIS:   With the red and the blue is the  
4       previously reclaimed.

5               CHAIRMAN JOHNSON:   All right.   Thank you.

6               MS. LEWIS:   Any other questions from the board  
7       on this issue?

8               So at this point in time the Division would  
9       like to move on to its third request, to authorize the  
10      Division to take all their necessary act -- reclamation  
11      actions.

12              So, Mr. Baker, what do you understand Division  
13      rules or statutes to authorize regarding actions not  
14      contemplated under the statutes or rules but necessary  
15      to complete reclamation and do you feel this will be  
16      necessary?

17              MR. BAKER:   As it says on this slide, "The  
18      board and the Division have the power and the duties to  
19      do all of the things and take other actions within the  
20      purpose of the act necessary to enforce its provisions."

21              And, as I stated previously, we -- we don't  
22      know exactly what's going to be encountered when  
23      reclamation is being done and so this is kind of a  
24      caveat provision that we're asking -- permission that  
25      we're asking for to be able to take whatever actions are

1           necessary.

2                   MS. LEWIS:  At this time, before I conclude,  
3           I'd like to move to enter Exhibits A through D and,  
4           also, rebuttal -- a rebuttal Exhibit A into evidence.  
5           And I --

6                   CHAIRMAN JOHNSON:  We haven't gone through  
7           rebuttal Exhibit A, have we?

8                   MS. LEWIS:  A was the -- is the transitional  
9           reclamation, we haven't yet.  No.  I should say that --

10                  CHAIRMAN JOHNSON:  Let's hold off on that.  So  
11           you want to enter Exhibits A through D?

12                  MS. LEWIS:  Yes.

13                  CHAIRMAN JOHNSON:  Mr. Haas, do you have any  
14           objections to any of those exhibits?

15                  MR. HAAS:  Every one of them.

16                  CHAIRMAN JOHNSON:  Okay.  Can you tell us  
17           briefly what your objections are?

18                  MR. HAAS:  Well, first of all, the acreage  
19           that was restored to get to the \$36,000, how we came to  
20           the \$36,000 is I met with the Division and substantially  
21           reclamated the quarry, okay, seeding and all.

22                  CHAIRMAN JOHNSON:  Okay.  Mr. Haas, let --  
23           let's -- you'll get an opportunity to -- to describe to  
24           the board what transpired.  But let's talk about just  
25           the exhibits first.  Exhibit A is the transitional

1       reclamation contract.   Okay?

2               MR. HAAS:   Yes.

3               CHAIRMAN JOHNSON:   And the Division would like

4       to just enter that into the record?

5               MR. HAAS:   Fine.

6               CHAIRMAN JOHNSON:   Do you have any problems

7       with that --

8               MR. HAAS:   No.

9               CHAIRMAN JOHNSON:   -- document?

10              MR. HAAS:   I do not.

11              CHAIRMAN JOHNSON:   Okay.   Exhibit B is a

12       summary of inspection reports.   Have you read that?

13              MR. HAAS:   No, I have not.

14              CHAIRMAN JOHNSON:   Okay.   Have you been

15       provided a copy of it?

16              MR. HAAS:   Not to my knowledge, no.

17              CHAIRMAN JOHNSON:   Okay.

18              MS. LEWIS:   We -- we did talk about this --

19       these exhibits yesterday and he has been e-mailed a

20       version of them.   So --

21              CHAIRMAN JOHNSON:   Mr. Haas, have you received

22       copies of all -- all inspection reports when the

23       Division has come to inspect the property --

24              MR. HAAS:   No.

25              CHAIRMAN JOHNSON:   -- through the years?

1 MR. HAAS: No.

2 CHAIRMAN JOHNSON: You have not?

3 MR. HAAS: Not to my knowledge, no.

4 CHAIRMAN JOHNSON: Okay. Exhibit C is the map  
5 of the -- of the mine site showing the disturbed area  
6 and the reclaimed area. Are you -- you're familiar with  
7 that map?

8 MR. HAAS: Yes, correct.

9 CHAIRMAN JOHNSON: Okay. Do you have any  
10 objections to that map --

11 MR. HAAS: No.

12 CHAIRMAN JOHNSON: -- being entered?

13 MR. HAAS: No.

14 CHAIRMAN JOHNSON: And Exhibit D is the letter  
15 of credit from Far West Bank from 2001. Do you have any  
16 objections to that --

17 MR. HAAS: No.

18 CHAIRMAN JOHNSON: -- document? Okay. Okay.  
19 So let's enter Exhibits A, C and D for now. Exhibit B  
20 is the summary of inspection reports.

21 (Division Exhibits A, C and D were received  
22 into evidence.)

23 CHAIRMAN JOHNSON: Ms. Lewis, you touched on  
24 that very briefly.

25 MS. LEWIS: Uh-huh.



1                   CHAIRMAN JOHNSON:  Would you please go through  
2                   that document in a little more detail or let us know  
3                   what's in that document?  And, Mr. Haas, do you have a  
4                   copy of that in front of you?

5                   MR. HAAS:  No.

6                   CHAIRMAN JOHNSON:  Ms. Lewis, do you have a  
7                   copy?

8                   MS. LEWIS:  Yeah.  I have a copy of it.  I'm  
9                   going to defer to Mr. Kunzler to go through the summary  
10                  as he has been the -- the man on the job conducting most  
11                  of these inspections.  And it's really just  
12                  demonstrative of all the other inspection summaries that  
13                  are -- inspection -- inspections that the Division has  
14                  done throughout the year.  So it's just kind of a  
15                  compilation of all of them.

16                  CHAIRMAN JOHNSON:  But those individual  
17                  inspections are not being entered as exhibits, correct?

18                  MS. LEWIS:  Yes, yes.

19                  CHAIRMAN JOHNSON:  Okay.  So I think it would  
20                  be prudent for us to go through the summary.

21                  MR. PAYNE:  Mr. Chairman, we have not had Mr.  
22                  Kunzler describe his relationship to this or introduce  
23                  himself?  Maybe we should do that.

24                  CHAIRMAN JOHNSON:  Okay.  That's a good point.  
25                  Ms. Lewis, would you set some foundation, please,

1       regarding Mr. Kunzler?

2               MS. LEWIS: Mr. Kunzler, could you please  
3       state your title and position with the Division and your  
4       duties for the Division?

5               MR. KUNZLER: I am currently a senior  
6       reclamation specialist with the Division. As -- part of  
7       my duties in that position is to not only review and  
8       permit applications to -- that are submitted but to  
9       conduct periodic inspections of mines within an assigned  
10      area that I have within the state and for several years  
11      the Sanpete County where this particular quarry is  
12      located, I did have the assignment to conduct those  
13      periodic inspections.

14              MS. LEWIS: Would you please explain to the  
15      Division -- or the -- briefly give a summary of what's  
16      happening for them, the specifics about your individual  
17      inspections?

18              MR. KUNZLER: Okay. On these inspections  
19      and -- I maybe should start at the bottom and work up  
20      rather -- to get a more chronological order from oldest  
21      to the newest.

22              In October of 2006 I inspected the site. The  
23      operator had filed for bankruptcy and failed to maintain  
24      a surety and upon learning that the letter of credit  
25      would be renewed -- or would not be renewed, the

1 operator was instructed it had begun reclamation  
2 activities at the site.

3 In November of 2006 I was notified that  
4 Mr. Haas was issued a cessation order, that had not been  
5 abated by maintaining an adequate surety or a request  
6 for a stop-work conference to modify that order. A  
7 civil penalty was assessed at that time.

8 November 13th of 2006, inspection found that  
9 the mine was inactive and appeared abandoned without the  
10 reclamation work required by the cessation order.  
11 Several, apparently, abandoned vehicles, machinery, were  
12 also observed at the site and the report recommended the  
13 site be reclaimed and the operator notified that he is  
14 in failure to abate the situation.

15 In November 17th of 2006, referred back to  
16 inspection made of -- in August, that found the site  
17 inactive with some auxiliary reclamation activities but  
18 no reclamation on the actual quarry site, itself.  
19 Inspector contacted Bryce Haas, that would have been me,  
20 to discuss the reclamation requirements and the  
21 reclamation surety deadline of October 31st of that  
22 year.

23 In February of 2007, inspection found the  
24 operator is close to completing reclamation by the time.  
25 Again, there was still activity going on at the site

1       and -- but he, at that time, did appear to be diligent  
2       in doing reclamation.

3               In April, the reclamations were -- activities  
4       hadn't changed a lot but were close to being on a  
5       schedule that we had agreed to at that time to get that  
6       reclamation completed.

7               In September of 2007 inspection, reclamation  
8       should have been near -- you know, essentially completed  
9       with the exception of seeding at that time. And there  
10      had been virtually no reclamation or change in the  
11      appearance of the site between that and when I inspected  
12      in April.

13              In May of 2008 there had been additional  
14      reclamation. The office building had been razed at that  
15      time and Mr. Haas was, again, doing some reclamation  
16      work.

17              In March of 2009 there was still equipment on  
18      the site and there was still a considerable amount of  
19      regrading that needed to be done.

20              In July of 2009, inspection was conducted to  
21      review with SITLA, the land managing agency, and the  
22      operator determined what needed to be done to complete  
23      the reclamation at the site.

24              In August SITLA had inspected the site and had  
25      expressed concerns to the Division that no work had been

1       done. And there had been little reclamation work, if  
2       any, and much grading would need to be done to complete  
3       the reclamation.

4               In January of 2010 there had been no  
5       reclamation work completed since the August visit and in  
6       March of 2010 we determined that he had substantially  
7       failed to reclaim the site.

8               MS. LEWIS: And then, Mr. Kunzler, for the  
9       board's -- would you mind explaining to the board about  
10      the photos you see represented?

11              MR. KUNZLER: Okay. Photos that are here were  
12      took --

13              CHAIRMAN JOHNSON: Ms. Lewis, are these going  
14      to be entered as exhibits?

15              MS. LEWIS: They're just as examples. They  
16      don't have to be entered as exhibits but would you like  
17      them to be? Yeah. We can enter them as exhibits.

18              CHAIRMAN JOHNSON: If you're going to take the  
19      time to go through them, I would rather have them --

20              MS. LEWIS: Okay.

21              CHAIRMAN JOHNSON: -- enter them as exhibits.

22              MS. LEWIS: They're really not any specific  
23      reclamation activities but just to give the board  
24      examples of the state of the quarry.

25              CHAIRMAN JOHNSON: Yes. Before -- thank you,

1 Mr. Payne. Before we move forward, Ms. Lewis, do you  
2 have any other questions regarding Exhibit B for  
3 Mr. Kunzler and help him explain what this document is?

4 MS. LEWIS: I don't have any more for  
5 Mr. Kunzler. Just with the added note that this is just  
6 a summary of the -- summary inspection reports and that  
7 the Division did go back one other time in November and  
8 perhaps Mr. Kunzler should address that, the final  
9 inspection, the most recent inspection and what they  
10 found there.

11 CHAIRMAN JOHNSON: Does that deal with this  
12 Exhibit B?

13 MS. LEWIS: No.

14 CHAIRMAN JOHNSON: Okay. Let's move -- let's  
15 come back to them. Okay. Mr. Haas, so this Exhibit B  
16 is a summary of items taken from Mr. Kunzler's  
17 inspection reports. Now, if you disagree with anything  
18 that he has reported, you'll have an opportunity to talk  
19 about that later.

20 But as far as this document, which is just a  
21 summary of his reports, do you have any objection to the  
22 document, itself? I understand you may have concerns  
23 about some of the things he has stated and we'll address  
24 those later, but as -- but as far as just the record of  
25 our proceedings today, do you have any -- any objections

1 to this document?

2 MR. HAAS: Yes, I do.

3 CHAIRMAN JOHNSON: Okay. You have objections  
4 to this document being entered into the record?

5 MR. HAAS: I do.

6 CHAIRMAN JOHNSON: And what are those  
7 objections?

8 MR. HAAS: The objections are that there was  
9 reclamation that was going on and I was also being  
10 permitted to operate my sawing ability on this quarry  
11 because I had another adjacent quarry. And we were  
12 being permitted by SITLA to operate on that quarry to  
13 keep another quarry alive because all the sawing  
14 applications were on this quarry.

15 We were using the site and when we went out  
16 and made our final inspection, or preliminary inspection  
17 I'm going to say, we walked through and there was five  
18 acres that was unreclaimed plus an additional two acres  
19 around the shop --

20 CHAIRMAN JOHNSON: Okay.

21 MR. HAAS: -- including the well.

22 CHAIRMAN JOHNSON: Mr. Haas, we will get into  
23 what your objections are to the specifics of this  
24 document. However, this document is just a summary of  
25 Mr. Kunzler's inspection notes. So --

1 MR. HAAS: That's fine.

2 CHAIRMAN JOHNSON: -- as -- as a document,  
3 itself, I don't believe you have any objections --

4 MR. HAAS: No, that's fine.

5 CHAIRMAN JOHNSON: -- to the document, itself,  
6 but we will get into your problems and particulars.  
7 Okay?

8 So Exhibit B will be entered.

9 (Division Exhibit B was received into evidence.)

10 MR. JENSEN: Mr. Chairman, I have a question,  
11 just a clarification. Ms. Lewis, on the February 15th,  
12 '07 entry, operator is close to completing reclamation  
13 by timelines in 12/06/2006 reclamation agreement.

14 Is there another agreement?

15 MS. LEWIS: My understanding is Mr. Kunzler  
16 will address this, that there was kind of an oral  
17 letter, agreement, it wasn't an official agreement that  
18 the Division and Mr. Haas came to.

19 CHAIRMAN JOHNSON: What's an oral letter  
20 agreement?

21 MS. LEWIS: Well, it was -- it was an oral  
22 agreement --

23 MR. JENSEN: It's an oxymoron.

24 MS. LEWIS: -- and it was -- there is a letter  
25 that followed. They came to at the site.



1                   CHAIRMAN JOHNSON:   So it was a verbal  
2                   agreement --

3                   MS. LEWIS:   A verbal agreement that was  
4                   later --

5                   CHAIRMAN JOHNSON:   -- that was followed up  
6                   with a letter?

7                   MS. LEWIS:   Yes.

8                   MR. KUNZLER:   And if I could address that.  
9                   That agreement was not made by myself, it was made by  
10                  Mary Ann Wright who, at the time, was our associate  
11                  director of mining, and Susan White, who was the  
12                  minerals program manager. They conducted a visit at the  
13                  site on that date with the operator and had made the  
14                  agreement at that time, what was not part of the  
15                  agreement.

16                  MR. JENSEN:   Okay.   So what's the effect of  
17                  the December '06 agreement relative to the original  
18                  transitional reclamation contract?

19                  MR. KUNZLER:   My understanding of the  
20                  agreement was they had given him a time frame to  
21                  complete the reclamation of the site.

22                  MR. JENSEN:   So it wasn't intended to modify  
23                  the original contract.

24                  MR. KUNZLER:   No, it was not. It was just a  
25                  -- an agreement to meet a particular time frame and

1       other factors in getting the reclamation completed  
2       there.

3               MR. JENSEN:   And you're not relying on the  
4       December '06 agreement?

5               THE WITNESS:   No.

6               MR. JENSEN:   For purposes of this hearing.

7               MS. LEWIS:   And, Mr. Kunzler, did the letter  
8       change any of his obligations or rec- -- general  
9       reclamation obligations?

10              MR. KUNZLER:   To my knowledge, that agreement  
11       had nothing -- no effect on his requirements to complete  
12       reclamation.

13              MR. JENSEN:   Thank you.

14              MR. HAAS:   And that is correct.   He's correct  
15       in that statement.

16              CHAIRMAN JOHNSON:   Okay.   Ms. Lewis, we are  
17       still receiving testimony from Mr. Baker so --

18              MS. LEWIS:   Yes.

19              CHAIRMAN JOHNSON:   -- we have entered Exhibits  
20       A through D.   Would you like to continue with your  
21       questioning for Mr. Baker?

22              MS. LEWIS:   At this time my questioning of  
23       Mr. Baker is concluded but I would like to reserve the  
24       opportunity to present now a -- Mr. Kunzler rebuttal to  
25       Mr. Haas's presentation.

1                   CHAIRMAN JOHNSON: First, let's see if Mr.  
2                   Haas has any questions for Mr. Baker regarding his  
3                   testimony.

4                   MR. HAAS: I do not.

5                   CHAIRMAN JOHNSON: Go ahead. Mr. Haas, do you  
6                   have any questions for Mr. Baker?

7                   MR. HAAS: No, I do not.

8                   CHAIRMAN JOHNSON: Okay. Does the board have  
9                   any questions for Mr. Baker?

10                  THE BOARD: (No response.)

11                  CHAIRMAN JOHNSON: Okay. So go ahead, then,  
12                  Ms. Lewis.

13                  MS. LEWIS: At this point in time I would like  
14                  to conclude but preserve the opportunity to present  
15                  Mr. Kunzler as a rebuttal witness and also Mr. John  
16                  Blake from SITLA as a rebuttal witness, if need be.

17                  CHAIRMAN JOHNSON: Okay. So you are finished  
18                  with your testimony.

19                  MS. LEWIS: Yes.

20                  CHAIRMAN JOHNSON: All right. Mr. Haas, let's  
21                  move to you then. Please go ahead.

22                  MR. HAAS: The -- what -- what had happened is  
23                  in this instant was the economy was failing. I was  
24                  putting all of my resources towards getting these  
25                  properties reclaimed. I spoke with John Blake from

1       SITLA, my equipment was ten miles from the location and  
2       it was tied to this bond at one time.  It's -- it's a  
3       different location.  I spoke to him and said, "My  
4       equipment's ten miles away.  I'm going to go over here,  
5       I'm going to reclamate this -- this other quarry because  
6       I'm close.  I don't want to move equipment three times.

7               We did reclamate that quarry.  It has not had  
8       the seeding redone to it but it is reclamated and Lynn  
9       Kunzler came out and I think John Blake did, if I  
10      remember right, and said, "Okay.  We're good with the  
11      reclamation.  We need to, you know, hold some money in  
12      reserve for the seeding."

13             CHAIRMAN JOHNSON:  Was this in 2009, Mr. Haas?

14             MR. HAAS:  Yes.

15             CHAIRMAN JOHNSON:  Okay.

16             MR. HAAS:  I believe it is.  My memory doesn't  
17      serve me very well.

18             CHAIRMAN JOHNSON:  Okay.  It was approximately  
19      2009?

20             MR. HAAS:  Yeah.  At that time we finished  
21      that reclamation and moved our equipment over to a site  
22      that's adjacent to this quarry to go ahead and get  
23      access to the quarry.

24             I met with Dana Dean and some other people  
25      from the Division and learned that Dana Dean served me

1 with the set of papers from SITLA saying that I could  
2 not access the property in any way, shape, or form. It  
3 prohibited from me going in and finishing the  
4 reclamation. I was ready, my equipment was staged, I  
5 was ready to do that.

6 They shut me out of the quarry. I haven't  
7 been back on the quarry since. I haven't been allowed  
8 back on the quarry. I don't have a preliminary amount  
9 of acres. I haven't been onto the location at all, but  
10 I posted a bond for the location. And I'm -- I'm kind  
11 of confused here how I can be locked out of a quarry  
12 that I posted a bond with the Division here to make my  
13 rec- -- make my recommendations to them so I can stay on  
14 what timeline and where and when and how this is going  
15 to happen.

16 I -- I didn't have that opportunity. They  
17 locked me out of it and basically said, "There." And so  
18 I really haven't had due process in trying to reclaim  
19 this site, yet they've given me several opportunities to  
20 reclaim it. I was doing that as I could afford to do it  
21 and, you know, I show up with my equipment staged and  
22 everything else. I never got any formal letter from  
23 SITLA. I got -- I got a hand -- a typed-up letter  
24 saying they restricted me from the property and it was  
25 delivered by Oil, Gas and Mining. And in my mind, Oil,

1 Gas and Mining and SITLA are two different agencies, and  
2 I don't know how Oil, Gas and Mining, can step in and  
3 deliver papers for SITLA to keep me off a piece of  
4 ground that needs to be reclamated under the law. And  
5 that confuses me.

6 So when they say I haven't made an avid  
7 attempt, you can see here that I've made attempts and  
8 you can see where I've run out of money, and where I  
9 picked up with more money and went back in and did what  
10 I could. I removed the structures. I've done  
11 everything I said I would do but I was there ready to  
12 make it happen and had equipment staged and they locked  
13 me out of the quarry. And here we are today, fighting  
14 about it when, you know, six months ago if they'd have  
15 just left it be and let me go in here and finish it, we  
16 wouldn't even be here today.

17 But they -- they literally locked me out of  
18 the quarry and I haven't stepped foot back on that  
19 quarry for an inspection of anything. Not only that but  
20 SITLA sent me a letter saying that if I didn't forfeit  
21 my water rights out of that well, that they were going  
22 to sue me personally. Well, the well is theirs. It's  
23 drilled on their property. They have -- they have  
24 "added" value to their property. My water is my water.  
25 I hold the certificate. And that's an unfair taking and

1 I think that it can be fought and won because there  
2 isn't anybody in the world that's going to give up 15,  
3 \$20,000 worth of water shares just because somebody  
4 tells me you have to.

5 And if -- if the site is, indeed, going to be  
6 reclaimed, why would they send me a letter and say, "We  
7 want your water rights," when what -- what their ability  
8 is and what their -- their gripe is is to get the site  
9 reclaimed? But how can I reclaim the site if they don't  
10 allow me access to it and I posted the bond and you've  
11 seen what I've posted to go in there and get it  
12 reclaimed.

13 I mean, I -- I'm confused between the  
14 agencies. Either one agency stands over here on the  
15 right and one stands over here on the left. There's no  
16 gray area and what I have here is a whole bunch of gray  
17 area because I was more than willing to go in there and  
18 get it done when Dana Dean served me the papers and  
19 said, "This is from SITLA and you're not out -- you're  
20 not able to even go in and inspect the property." I  
21 said, "I want to make an inspection today." They  
22 wouldn't let me inspect the property. Nor would they  
23 accompany me to inspect the property. I asked five  
24 times to get inspections made to the property to know  
25 exactly how many acres were undisturbed, how many acres

1       needed to be reclaimed, how many acres needed to be  
2       reseeded.

3               I responded to Dana Dean and Lynn Kunzler and  
4       I never got anything out of it other than, "We're going  
5       to address that at a hearing."

6               Now, you know, I'm not a very bright  
7       individual but you know what, when you have somebody  
8       that's standing there ready to do the work and you tell  
9       them they can't go in there and do the work, we got a  
10      serious problem on our hands because -- yeah, they've  
11      been patient, don't get me wrong, but you know what,  
12      that's like raising a racehorse, and prime racehorse and  
13      going out on race day and breaking his front legs out  
14      from underneath him and saying, "We're done with this.  
15      We're done with you and our investment, we just want to  
16      wash it and be done."   How much sense does that make?

17              CHAIRMAN JOHNSON:   Okay.   Mr. Haas, do you  
18      have a copy of the letter regarding the well that you  
19      said you received.

20              MR. HAAS:   I don't with me.

21              CHAIRMAN JOHNSON:   Okay.   Okay.   Ms. Lewis, do  
22      you have any questions for Mr. Haas?

23              MS. LEWIS:   I don't have any -- I just would  
24      like to remind the board about the scope of the hearing,  
25      which is limited to our contribution version to those



1       three requests, the noticed agency action, and then I  
2       don't have any direct questions for Mr. Haas but would  
3       like to refer to Mr. John Blake of SITLA to discuss and  
4       cover the access.

5               CHAIRMAN JOHNSON:   Okay.   Let's wait just a  
6       minute on that.   Does the board have any questions for  
7       Mr. Haas?

8               MR. HAROUNY:   I do.

9               CHAIRMAN JOHNSON:   Mr. Harouny.

10              MR. HAROUNY:   Mr. Haas, you drilled a water  
11       well, correct?

12              MR. HAAS:   I did.

13              MR. HAROUNY:   And you do know the water is  
14       appropriated to you, correct?

15              MR. HAAS:   Correct.

16              MR. HAROUNY:   For a certain purpose.   What was  
17       the purpose of that appropriation?

18              MR. HAAS:   To operate a saw shop.

19              MR. HAROUNY:   So you do realize when you don't  
20       have that purpose that you cannot carry the water rights  
21       for any other purpose, it has to be reappropriated,  
22       correct?

23              MR. HAAS:   I understand that but, also, I  
24       don't have to forfeit my water rights.   You know, I can  
25       go anywhere in that drainage and reappropriate my water

1 right. That doesn't mean that I have to forfeit my  
2 water right because it's attached to that well. And  
3 when that well gets reclamated, the water goes away.  
4 When it's filled in, I can use that water and any other  
5 appropriation in that drainage. It's not tied directly  
6 to that well and it hasn't been since 2002, 2003.

7 MR. HAROUNY: But it's tied to that purpose,  
8 correct?

9 MR. HAAS: Yes.

10 MR. HAROUNY: Okay. I just wanted to make  
11 sure you know that.

12 CHAIRMAN JOHNSON: Mr. Payne? Does -- okay.  
13 Does the board have any other questions?

14 MR. JENSEN: Just to -- just to make it clear.  
15 This board doesn't have any jurisdiction over water  
16 rights. And we're not going to make any decisions about  
17 water rights. Understood?

18 MR. HAAS: That's clear. Thank you.

19 MR. JENSEN: Okay.

20 CHAIRMAN JOHNSON: Okay. Ms. Lewis, you  
21 indicated you have some rebuttal testimony you would  
22 like to put on.

23 MS. LEWIS: Yeah. I would just like to refer  
24 to -- I'd like to have sworn in, at this time, Mr. John  
25 Blake, to respond to Mr. Haas's testimony.

1                   CHAIRMAN JOHNSON: Mr. Blake, can you be  
2 sworn, please?

3                   JOHN BLAKE,  
4 called as a witness on behalf of the Division, being  
5 duly sworn, was examined and testified as follows:

6                   MR. BLAKE: Yes.

7                   THE REPORTER: Thank you.

8                   MS. LEWIS: Mr. Blake, for the board, would  
9 you please state your name and position and your  
10 relationship to this matter?

11                  MR. BLAKE: My name is John Blake. I'm  
12 employed by the School and Institutional Trust Lands  
13 Administration in their minerals program, and part of my  
14 responsibilities are to administer the mineral leases  
15 under which Mr. Haas was operating on these lands.

16                  MS. LEWIS: I believe the board has it before  
17 it, Rebuttal Exhibit A.

18                  Could you please just explain to the board in  
19 response to Mr. Haas's testimony the timeline and the  
20 various lease agreements entered in between SITLA and  
21 the Respondent?

22                  MR. BLAKE: Yes, first of all, I would not  
23 characterize it -- Mr. Dean, that Mr. Haas is not  
24 permitted on the land. The situation that exists is  
25 that he has no contract, no right of entry from SITLA at

1       the present time to enter that land to perform any work.  
2       In other words, he cannot -- he doesn't have any  
3       contract or -- or right of entry to take equipment on  
4       there to disturb the land.

5               CHAIRMAN JOHNSON: Mr. Blake, are you talking  
6       about for mining purposes?

7               MR. BLAKE: For mining or reclamation --

8               CHAIRMAN JOHNSON: For reclamation.

9               MR. BLAKE: -- or any other purposes.

10              MS. LEWIS: Mr. Blake, could you please  
11       explain to the board the series of leases that were  
12       entered and the special agreements so they can  
13       understand the relationship between the two?

14              MR. BLAKE: Yeah. SITLA has entered a number  
15       of leases, successive leases with Mr. Haas on this  
16       particular property, as one lease would cancel or  
17       expire, we would issue another one to him. And we, in  
18       fact, have issued two leases successfully, specifically,  
19       for the purpose of going onto that property and  
20       completing reclamation work. In each case he failed to  
21       live up to the terms of that agreement. He failed to  
22       reclaim the property.

23              On a couple of other occasions we've given him  
24       noncontractual permissions to enter the property at his  
25       own risk and to go in there and perform the reclamation

1 work. And during those time extensions that were given,  
2 he again failed to perform the work. So at the time  
3 that Mr. Haas is talking about that he has equipment  
4 there and ready to go, he had no agreements with us at  
5 that time to enter the land and we were not about to  
6 enter any other agreements with him because in all the  
7 previous agreements we had entered, he had failed to  
8 live up to his commitments.

9 So we decided that it was time to ask for the  
10 loan be forfeited and go in and perform the reclamation  
11 work ourselves.

12 MR. JENSEN: May I ask a question,  
13 Mr. Chairman?

14 Mr. Blake, from the original request for -- or  
15 notice of agency action, there's a reference to SITLA  
16 extending mineral lease 51303 on June 8, 2009, for an  
17 additional 45 days. From -- from the -- from this  
18 request it appears that that's the last written  
19 authorization that Mr. Haas would have had to access the  
20 property?

21 MR. BLAKE: That is correct.

22 MR. JENSEN: And -- and is it your testimony  
23 that there were subsequent oral agreements to access the  
24 property?

25 MR. BLAKE: Not after that date.

1                   MR. JENSEN:    So this -- 45 days from this date  
2                   it's over.

3                   MR. BLAKE:    That's right.

4                   MR. JENSEN:    Thank you.

5                   CHAIRMAN JOHNSON:   Go ahead, Ms. Lewis.

6                   MS. LEWIS:    I would just like to note there  
7                   may be a date discrepancy between the -- the PowerPoint  
8                   and Mr.-- Mr. Blake's testimony.   Mr. Blake is the  
9                   expert on the dates.

10                  CHAIRMAN JOHNSON:   I think we're at the point,  
11                  Mr. Blake, you were going to describe this rebuttal  
12                  Exhibit A, which is the -- the chronology.

13                  MR. BLAKE:    Yes.   I prepared this chronology,  
14                  which I would like to submit as an exhibit.

15                  CHAIRMAN JOHNSON:   It's been submitted.   So go  
16                  ahead.

17                  MR. BLAKE:    It gives dates and each of the  
18                  leases.

19                  CHAIRMAN JOHNSON:   Was this chronology  
20                  prepared by you?

21                  MR. BLAKE:    It was.

22                  CHAIRMAN JOHNSON:   Okay.   Tell us what's in  
23                  it.

24                  MR. BLAKE:    Pardon me?

25                  CHAIRMAN JOHNSON:   Please tell us what's in

1           it.

2                   MR. BLAKE:   Would you like to go through each  
3           item?

4                   CHAIRMAN JOHNSON:   However you think you need  
5           to explain it to the board and to Mr. Haas.

6                   MR. BLAKE:   June 16th, 1999, the agency  
7           entered a lease, No. ML48313 covering 80 acres of land.  
8           This 80 acres of land was the -- included the  
9           southwest -- southwest border, section 32, township 18  
10          south, range 1 east.   We issued this permit to Mr. Haas  
11          for the purpose of opening up a limestone quarry.

12                   On April 26th, 2000, this permit was amended.  
13          It was originally issued as a one-year term.   We amended  
14          it to have a term of three years and we also adjusted  
15          the royalty rate at that time for him.

16                   March 3rd, 2001, we found it necessary to  
17          amend this contract because Mr. Haas had trespassed on  
18          some adjacent acreage on trust land.   So we amended the  
19          contract.

20                   CHAIRMAN JOHNSON:   Mr. Blake, let me interrupt  
21          you just a minute, please.   This -- this exhibit has  
22          been entered as rebuttal to the testimony or -- excuse  
23          me, it wasn't testimony, it was -- the description  
24          offered by Mr. Haas.   Okay.

25                   So this is a rebuttal exhibit.   You've

1       established that this was -- this chronology was  
2       prepared by you.  Rather than marching through every  
3       line item in it, would you please try to focus on those  
4       items that deal with rebutting the -- the descriptions  
5       given by Mr. Haas?

6               MS. LEWIS:  Can I request just a moment to  
7       speak with my clients?

8               CHAIRMAN JOHNSON:  Yes.

9               MR. BLAKE:  When B&H Stone went into  
10       bankruptcy a few years ago he was operating under one  
11       lease, successive leases, which was ML48949.  Since B&H  
12       Stone was no longer an entity that lease had no validity  
13       anymore and at that time Mr. Haas told us that he had  
14       decided he was going to go reclaim the Fayette Quarry.

15               We issued him a one-year lease, ML50575,  
16       exclusively for the purpose of reclaiming that property  
17       within that one year.

18               CHAIRMAN JOHNSON:  So that lease was only to  
19       perform reclamation work, not to extract stone; is that  
20       what you're saying?

21               MR. BLAKE:  I'm sorry.  I have trouble  
22       hearing.

23               CHAIRMAN JOHNSON:  Okay.  So was your  
24       testimony that ML50575 was issued only for the purpose  
25       of Mr. Haas performing reclamation work --



1 MR. BLAKE: That is correct.

2 CHAIRMAN JOHNSON: -- not for -- not for

3 extracting stone.

4 MR. BLAKE: That is correct.

5 CHAIRMAN JOHNSON: Okay. Thank you.

6 MR. PAYNE: And could you clarify for me,

7 the -- you just used the term "Fayette Quarry," was the

8 first time we've heard that. Is that the name of this

9 quarry that's at issue --

10 MR. BLAKE: The name of the quarry is B&C.

11 MR. PAYNE: Okay. So --

12 MR. BLAKE: The name of the company is B&H.

13 MR. PAYNE: Okay. So Fayette Quarry, tell us

14 what that means.

15 MR. BLAKE: The Fayette Quarry is the B&C

16 Quarry.

17 CHAIRMAN JOHNSON: It's located near the town

18 of Fayette, correct?

19 MR. BLAKE: It's near the town of Fayette.

20 CHAIRMAN JOHNSON: Okay.

21 MR. BLAKE: This lease expired after the

22 period of one year. The reclamation was not completed.

23 We wrote Mr. Haas a letter instructing him to remove his

24 equipment from the property by no later than

25 February 29th, 2008.

1           Mr. Haas called me and asked for an extension  
2           of time in order to remove his equipment and complete  
3           the reclamation. I wrote him back a letter, this was on  
4           February 7th. I wrote him back a letter, told him I  
5           would give him till May 31st, 2008, to enter the  
6           property at his own risk, he had no contract with us at  
7           that time, but to enter the property at his own risk to  
8           perform the work.

9           We subsequently had a meeting out on the site  
10          and -- to talk about what reclamation work he was going  
11          to do and what needed to be completed during this  
12          period. During that conversation I agreed that SITLA  
13          would issue him a new one-year permit. This permit was  
14          approved April 11th, 2008, ML51303. Again, this permit  
15          was explicitly for the purpose of going on the property  
16          and reclaiming the property during that one-year period.

17          Mr. Haas failed to reclaim the property during  
18          that year. At the expiration of that permit I had a  
19          call from Mr. Kunzler. He advised me that he had been  
20          in conversation with Mr. Haas, that Mr. Haas had had  
21          equipment problems, and that's why he hadn't completed  
22          the reclamation. So I said, "Well" -- I asked the  
23          director of SITLA to give him another 30 days' extension  
24          to complete the work. The director approved that  
25          action. And so the work was to be completed then by the

1       end of May 2009.

2               On June 1st, 2009, I went out to the site, no  
3       work had been done to complete the reclamation.

4       Mr. Haas called me shortly thereafter, said that -- this  
5       is the point, I believe, which he was reclaiming the  
6       Gunnison Quarry, which is the other quarry that he had  
7       been working in. He said that he was reclaiming that  
8       quarry and he would come over after he'd finish that  
9       work and reclaim the Fayette Quarry.

10              And so I asked the director to give him a  
11       45-day extension to do that. The director granted that  
12       extension. This is on June 8th, 2009.

13              On August 12th, 2009, I inspected the site,  
14       found that the work had not been completed. And at that  
15       point in time, we decided that it was necessary to ask  
16       to forfeit the bond and to have ourselves perform the  
17       reclamation work using that bond money.

18              So there have been several opportunities for  
19       Mr. Haas to go in there and complete that reclamation  
20       work, both under contract and without contract. And in  
21       each instance -- each instance he failed to complete the  
22       reclamation work.

23              Are there any other questions?

24              CHAIRMAN JOHNSON: Ms. Lewis, do you have any  
25       questions?

1 MS. LEWIS: I don't have any questions for  
2 Mr. Haas or for Mr. Blake. Just to note, though,  
3 Chairman, you mentioned -- or you noted that Mr. Haas  
4 has not been sworn. So those statements aren't  
5 testimony. Is that something that you would like to do?

6 CHAIRMAN JOHNSON: You tell me.

7 MS. LEWIS: I -- Mr. Haas, would you like your  
8 record -- your statements to be on the record?

9 MR. HAAS: Yes.

10 MS. LEWIS: We probably should have him sworn  
11 in, please.

12 MR. HAAS: Well, it's a little late for the  
13 statements I already made.

14 CHAIRMAN JOHNSON: Let's wait. Let's wait  
15 till we --

16 MS. LEWIS: We can affirm what he said was  
17 true.

18 CHAIRMAN JOHNSON: Mr. Haas.

19 MR. HAAS: So we are going to confirm that  
20 they are true.

21 MS. LEWIS: No, no, no.

22 CHAIRMAN JOHNSON: No.

23 MS. LEWIS: We're -- basically, since you  
24 weren't sworn in, originally your statements aren't on  
25 the record yet so we'd like you to affirm your

1 statements you made earlier and swear in so that they  
2 are on the record.

3 MR. HAAS: Okay.

4 MR. PAYNE: Could we -- could we finish with  
5 this witness?

6 CHAIRMAN JOHNSON: Yes. We'll get to Mr. Haas  
7 in a minute, Ms. Lewis.

8 Do you have any -- do you have any other  
9 questions for Mr. Blake?

10 MS. LEWIS: I have no more questions for  
11 Mr. Blake.

12 CHAIRMAN JOHNSON: Okay. And do you want to  
13 move that this Rebuttal Exhibit A be entered?

14 MS. LEWIS: Yes. I'd like to move for  
15 Rebuttal Exhibit A to be entered.

16 CHAIRMAN JOHNSON: Okay. Mr. Haas, again,  
17 this -- this is a chronology prepared by Mr. Blake. If  
18 you've got disagreement with any of the facts in it,  
19 you'll be given an opportunity to tell the board what  
20 those disagreements are, but do you have any objection  
21 to this document being entered as Mr. Blake's  
22 chronology?

23 MR. HAAS: Yes.

24 CHAIRMAN JOHNSON: Okay. And what are those  
25 objections?

1                   MR. HAAS: Well. Okay. I'm not here -- I'm  
2 not here to regrind the axe. I want to get this over  
3 with. Let it enter. I mean --

4                   CHAIRMAN JOHNSON: Okay.

5                   MR. HAAS: -- it's not -- it's not all  
6 complete there but, you know --

7                   CHAIRMAN JOHNSON: Okay.

8                   MR. HAAS: -- let's get to the end of this  
9 mission.

10                  CHAIRMAN JOHNSON: We'll give you an  
11 opportunity to go through that.

12                  Does the board have any objections to Rebuttal  
13 Exhibit A?

14                  Okay. So that -- that is entered.

15                  (Division Exhibit Rebuttal A was received into  
16 evidence.)

17                  CHAIRMAN JOHNSON: Okay. Mr. Haas, do you  
18 have any questions for Mr. Blake?

19                  MR. HAAS: Yes, I do.

20                  CHAIRMAN JOHNSON: Go ahead.

21                  MR. HAAS: When I spoke to you on the phone  
22 when I had my equipment staged and everything else, we  
23 got into a conflict about the rock that was set down in  
24 the pasture, and you said to me that you were not going  
25 to allow me to enter the property and that was that.

1           The following week you came out -- or you  
2       didn't come out, you sent a letter out from SITLA that  
3       was delivered by Dana Dean to me on another location  
4       saying that I couldn't enter that property. Is that not  
5       correct?

6           MR. BLAKE: That's correct.

7           MR. HAAS: So -- so in essence what you're  
8       telling me is is, you know, what we agreed on the phone  
9       and what you agreed on after we got off the phone was  
10      two different things.

11          MR. BLAKE: I'm sorry. I don't understand  
12      that.

13          MR. HAAS: You agreed to let me enter the  
14      property at my own risk to finish the reclamation and  
15      then two days later Dana Dean came out with a letter  
16      from you and your attorneys saying that I could no  
17      longer enter the property; is that correct?

18          MR. BLAKE: Okay. When you talked to me on  
19      the phone about removing the stone, I said you cannot  
20      remove that stone until the reclamation was complete.

21          MR. HAAS: Complete, yes. And I understand  
22      that. That's not -- that's not my -- that's not my --  
23      that's not my concern. What my concern is is we talked  
24      about going in there and having that reclaimed and you  
25      agreed to let me do that and you agreed to let me take

1           the stone as long as the reclamation was done.

2                   MR. BLAKE: We talked about that, yes.

3                   MR. HAAS: You agreed to that?

4                   MR. BLAKE: I don't know there was any  
5 agreement. We talked about it.

6                   MR. HAAS: Oh. Okay. But in that agreement  
7 you're -- you're backpedaling here because you said just  
8 a minute ago, "I agreed to let you take the stone when  
9 the reclamation was complete," did you agree to that?

10                  MR. BLAKE: Yes, I did.

11                  MR. HAAS: Okay. Then, three days later --

12                  MR. BLAKE: But you --

13                  MR. HAAS: Three days later you sent out --  
14 you didn't send me a certified letter, your agency  
15 didn't send me a certified letter, you agreed to let me  
16 enter the property and three days later you changed your  
17 mind, you didn't give me my responsibilities in writing  
18 of what you wanted me to do or anything else. You put  
19 it in another agency's hands and with your attorney's  
20 signature on it, said that you were going to forfeit my  
21 water rights, take my water rights, and sue me, and I  
22 could not no longer enter the property; is that not  
23 correct?

24                  The paper -- now, remember, before you say,  
25 the paper tells the truth so remember that. And I've



1 got the paper.

2 MR. BLAKE: I don't know what paper you're  
3 looking at. But when we talked on the phone and we  
4 talked about you going in and reclaiming the property  
5 and then being able to take the stone, you expressed to  
6 me at that time that you were not going to reclaim the  
7 property just so you could take the stone. So we had no  
8 agreement about you doing anything there.

9 Subsequently, when I talked to our attorney  
10 about it, he advised me that we should not allow you to  
11 enter the property anymore and we should take action  
12 against the bond.

13 MR. HAAS: You just stated that you gave me  
14 permission to enter the property. You just stated that.

15 MR. BLAKE: But you didn't accept that  
16 opportunity. You injected that opportunity.

17 MR. HAAS: Okay. Why would I reject that  
18 opportunity when my equipment was staged less than a  
19 mile away?

20 MR. BLAKE: I don't know where your equipment  
21 was.

22 MR. HAAS: Uh-huh.

23 MR. BLAKE: You never told me you had any  
24 equipment there.

25 MR. HAAS: Okay. Okay, John. But you --

1       you -- you are saying that the opportunity was there for  
2       me to enter the property, yes or no?

3               MR. BLAKE:   What I'm saying, at the time we  
4       had that discussion, I was willing to talk to you about  
5       another opportunity to go in and reclaim the land.  And  
6       I had some conditions on it.

7               MR. HAAS:   You did.  And what were the  
8       conditions?

9               CHAIRMAN JOHNSON:  Hold on.  It seems to me  
10      that this really isn't getting anywhere.

11              MR. HAAS:   The conditions were that you were  
12      going to let me finish the reclamation --

13              CHAIRMAN JOHNSON:  Mr. Haas -- Mr. Haas.

14              MR. JENSEN:  Mr. Haas.

15              CHAIRMAN JOHNSON:  Mr. Haas, hold on just a  
16      second.

17              MR. JENSEN:   It seems to me that we've  
18      heard -- we've heard what Mr. Haas' position is about  
19      you thought you had an oral understanding to be able to  
20      go on the property and reclaim that, that's your  
21      position.  And then two or three days later you get a  
22      written letter delivered from -- SITLA letter delivered  
23      by the Division saying that you weren't authorized to go  
24      on the property.  That's the essence of what you said,  
25      isn't it?

1 MR. HAAS: (Nods head.)

2 MR. JENSEN: Okay. We understand.

3 CHAIRMAN JOHNSON: Just for the record, Mr.

4 Haas, you agreed with what Mr. Jensen said?

5 MR. HAAS: Yes.

6 CHAIRMAN JOHNSON: Okay. Thank you. Okay.

7 Do you have any other questions for Mr. Blake?

8 MR. HAAS: Not that I'm going to get anywhere

9 with today. I can obviously tell that.

10 CHAIRMAN JOHNSON: Okay. Does the board have

11 any questions for Mr. Blake?

12 MR. PAYNE: I do.

13 CHAIRMAN JOHNSON: Mr. Payne.

14 MR. PAYNE: I'd just like to clarify these

15 timelines. So the last time, Mr. Blake, that SITLA gave

16 formal permission to Mr. Haas was August 20th and they

17 gave him 45 days, putting that sometime in early October

18 the expiration of that period; is that correct?

19 MR. BLAKE: The last permission that had been

20 approved by the director for him to enter that property

21 and perform the work was the 45-day extension.

22 MR. PAYNE: Starting August 20th.

23 MR. QUIGLEY: Twelve.

24 MR. PAYNE: August 20, 2009.

25 MR. BLAKE: No. I believe that was back on

1           June 8th, 2009, the director gave a 45-day extension.

2           MR. PAYNE: Oh, correct. Correct.

3           MR. BLAKE: August 12th, I went to the  
4 property and found out that the work had not been  
5 completed during the 45-day extension period.

6           MR. PAYNE: Okay.

7           MR. BLAKE: The next contact I had with  
8 Mr. Haas is when we were just talking a moment ago when  
9 we had called me.

10          MR. PAYNE: So that was -- that was my  
11 question. So the only other contacts or requests to  
12 access the property was this phone call on May 6th,  
13 2010?

14          MR. BLAKE: Yes.

15          MR. PAYNE: So between the next period of that  
16 period in -- tell me when that would have expired. So  
17 June 8th, 2009, plus 45 days puts us somewhere the end  
18 of July 2009.

19          MR. BLAKE: There were no discussions during  
20 that period.

21          MR. PAYNE: So after July of 2009 there wasn't  
22 conversations till May of 2010 and that's been the only  
23 request for access to the site and there was initially a  
24 request to remove stone.

25          MR. BLAKE: Yes.

1           MR. PAYNE: Not a request to -- I'm referring  
2 to my notes here.

3           MR. BLAKE: His request was to remove stone,  
4 not to reclaim the property.

5           MR. PAYNE: Not to reclaim the property. And  
6 then there's been no subsequent request to access the  
7 property for reclamation after May of 2010?

8           MR. BLAKE: That's right.

9           MR. PAYNE: Thank you.

10          CHAIRMAN JOHNSON: Mr. Blake, the stone that  
11 you're talking about that Mr. Haas asked to remove, was  
12 that to process stone?

13          MR. BLAKE: Yes, it was.

14          CHAIRMAN JOHNSON: He had mined and sawed it  
15 so it could be sold?

16          MR. BLAKE: Yes. You've seen some of the  
17 pictures there.

18          CHAIRMAN JOHNSON: Okay. And --

19          MR. BLAKE: It was processed stone that's  
20 still on the property.

21          CHAIRMAN JOHNSON: It's still on the property  
22 now. But in order to properly reclaim this site, will  
23 that stone have to be removed?

24          MR. BLAKE: It will have to be removed and  
25 stored somewhere, yes.

1                   CHAIRMAN JOHNSON:   Okay.   And was that stone  
2                   legally mined by Mr. Haas under the terms of his permit?

3                   MR. BLAKE:   Yes, it was.

4                   CHAIRMAN JOHNSON:   Or lease?

5                   MR. BLAKE:   But it was abandoned on the  
6                   property after the leases had expired.

7                   CHAIRMAN JOHNSON:   Okay.   I'm not sure how you  
8                   mean "abandoned."   Because Mr. Haas says he would like  
9                   to -- to have the stone.

10                  MR. BLAKE:   After the leases have expired, a  
11                  person has so many days to go in and move their personal  
12                  property.

13                  CHAIRMAN JOHNSON:   Okay.   That's what you mean  
14                  by abandoned.

15                  MR. BLAKE:   From the land, yes.

16                  CHAIRMAN JOHNSON:   Okay.   And you're saying  
17                  that that -- that time period has expired?

18                  MR. BLAKE:   Yes.

19                  CHAIRMAN JOHNSON:   Okay.   All right.  
20                  Mr. Harouny?

21                  MR. HAROUNY:   The first and the second lease  
22                  extension that was given to Mr. Haas, the ML51351 --  
23                  51303, MP, what is the designation for MP?   Is that a  
24                  specific lease, a different --

25                  MR. BLAKE:   That designation is for a

1 materials permit.

2 MR. HAROUNY: Okay.

3 MR. BLAKE: That was not actually a lease. It  
4 was a mineral materials permit.

5 MR. HAROUNY: What does that entail and  
6 what --

7 MR. BLAKE: There's just -- there's just a  
8 distinction there in that a mineral materials permit is  
9 given for a -- generally issued for a shorter period of  
10 time. It can be canceled at any time by the director at  
11 his option. It does not give all the rights that a  
12 lease would give.

13 MR. HAROUNY: But does it also transfer all  
14 the abandonment obligations from the original lease?

15 MR. BLAKE: Well, those obligations still  
16 exist from the original lease.

17 MR. HAROUNY: So the ML51303 does not  
18 supersede the original lease?

19 MR. BLAKE: No. It's -- it was just another  
20 opportunity to -- to grant him a right of entry to go on  
21 the property and operate.

22 MR. HAROUNY: So it's basically an entry  
23 permit.

24 MR. BLAKE: That's right.

25 MR. HAROUNY: As part of this entry permit,

1        was -- so you basically gave him a one-year entry permit  
2        and all the provisions of the original lease are still  
3        intact, correct?

4                MR. BLAKE: Well, his -- his rights under the  
5        original lease had expired.

6                MR. HAROUNY: His obligations.

7                MR. BLAKE: His obligations were still intact.

8                MR. HAROUNY: Okay. One more question for  
9        you.

10               MR. HAAS: I think we can argue that's an  
11        unfair taking.

12               MR. HAROUNY: Under that -- that permit, the  
13        first -- you had two separate leases or permits given to  
14        Mr. Haas, correct?

15               MR. BLAKE: Yes. The first one was ML50575,  
16        that was back in 2000 -- back in December 15th, 2006.  
17        That was approved for issuance, that was an effective  
18        day of January 1st, 2007. And that was a one-year  
19        permit and, actually, that was a lease. And it was for  
20        the purpose of going in and doing reclamation work.

21               There's a specific provision in that lease  
22        that explicitly says it was issued for the purpose of  
23        reclamation.

24               MR. HAROUNY: Okay. Was the first permit  
25        coincidental with the reclamation work that Mr. Haas had



1       done on part of the property?

2               MR. BLAKE:   The reclamation they did on part  
3       of the property was done under the previous lease,  
4       ML48949.

5               MR. HAROUNY:   So that's under the original  
6       lease, correct?

7               MR. BLAKE:   Yes.

8               MR. HAROUNY:   So the -- the first permit was  
9       given after the reclamation was done?

10              MR. BLAKE:   That's right.

11              MR. HAROUNY:   So we're specifically talking  
12       to -- as to the disturbed area that is not reclaimed,  
13       the area that was read in the exhibit?

14              MR. BLAKE:   That's right.

15              MR. HAROUNY:   But --

16              MR. BLAKE:   Under these -- excuse me.   Under  
17       these subsequent lease -- reclamation leases that were  
18       given, he did go in and remove some of his equipment  
19       down by the pad, but there was very little regrading  
20       work done.

21              MR. HAROUNY:   Okay.   But the building and  
22       everything else was part of the blue area, correct,  
23       under the original lease?

24              MR. BLAKE:   Yes.

25              MR. HAROUNY:   So you mentioned that back in

1       2009, and that's after the permit was -- the first  
2       permit was issued, that he had done some work but it was  
3       done in an area that was already reclaimed or considered  
4       to be reclaimed?

5               MR. BLAKE: Well, he continued to go in and  
6       take equipment out over the years. Under these  
7       subsequent leases he continued to go in and take  
8       equipment out.

9               MR. HAROUNY: What I'm trying to get at is the  
10      statement that was made that no reclamation efforts were  
11      done, you know, and I went through your --

12              MR. BLAKE: There was not anything that I  
13      could determine that was substantial in the way of any  
14      regrading work or other types of reclamation work that  
15      had been done under any of these subsequent reclamation  
16      leases.

17              MR. HAROUNY: But the area was -- someplace on  
18      that lease the entire disturbed area, call it area A,  
19      area B, something was removed, something was cleaned up,  
20      correct?

21              MR. BLAKE: Yes.

22              MR. HAROUNY: After that first extension you  
23      gave him?

24              MR. BLAKE: Yes.

25              MR. HAROUNY: Okay. That's what I'm trying to

1       get at.

2                   CHAIRMAN JOHNSON:   Mr. Quigley.

3                   MR. QUIGLEY:   Mr. Blake, when you answered  
4       Mr. Harouny's question with respect to ML51303MP, you  
5       said that was a special lease to -- at least I  
6       understood you to say, that was a special lease that  
7       gave him an extension of the right to operate and it was  
8       my understanding in your testimony earlier that that was  
9       a special lease that gave him the rights to reclaim  
10      only.

11                  MR. BLAKE:   Those permits -- leases were  
12      issued for the purpose of reclamation.

13                  MR. QUIGLEY:   That was my --

14                  MR. BLAKE:   Now, they do not state in the  
15      lease that he cannot operate.   In other words,  
16      they're -- they're on a regular lease or permit form.  
17      But there's a special stipulation in there saying that  
18      it was issued for the purpose of reclamation.

19                  MR. QUIGLEY:   Okay.   But he could have  
20      operated under that lease?   He could have operated the  
21      quarry?

22                  MR. BLAKE:   Yes.

23                  MR. QUIGLEY:   Okay.

24                  MR. GILL:    I have a question.

25                  CHAIRMAN JOHNSON:   Mr. Gill.

1                   MR. GILL: Yes, sir. You're aware that even  
2 if you denied him permission to have access to the land  
3 for whatever reason, that the Division and the board  
4 can, through statutory authority, require them to handle  
5 the land reclamation, which would override whatever you  
6 do?

7                   MR. BLAKE: I'm not aware of the law on that  
8 but I'll accept that.

9                   MR. GILL: Thank you.

10                  CHAIRMAN JOHNSON: Mr. Payne, did you have a  
11 question?

12                  MR. PAYNE: I'd like to direct a question to  
13 Mr. Kunzler.

14                  CHAIRMAN JOHNSON: Go ahead. Mr. Kunzler, he  
15 has a question for you.

16                  MR. PAYNE: Mr. Kunzler, tell me one -- if I  
17 can go back to your summary. I want to make sure I'm  
18 understanding this. When was the last substantial  
19 reclamation work done on this property? Can you tell me  
20 from your notes?

21                  MR. KUNZLER: It would have been approximately  
22 between June and July of 2009. There had been a little  
23 bit of regrading work that had taken place.

24                  MR. PAYNE: So he was effectively doing  
25 reclamation work up through the time period when he was

1       told he could no longer access the property, he was  
2       doing something?

3               MR. KUNZLER: I'm not sure exactly when --

4               MR. PAYNE: Well, so earlier Mr. Blake had  
5       noted that there was a June 8th, 2009, giving him a  
6       45-day extension. So that puts it at the end of July  
7       but you're saying up through June there had been  
8       reclamation work --

9               MR. KUNZLER: There had been some --

10              MR. PAYNE: -- done on the property.

11              MR. KUNZLER: There had been a little bit done  
12       after that June 8th inspection?

13              MR. PAYNE: But there was progress up --  
14       essentially up until the time he was no longer --

15              THE WITNESS: Very little. Very little --

16              MR. PAYNE: -- allowed on the property.

17              MR. KUNZLER: -- progress.

18              MR. PAYNE: Okay. I asked you when the last  
19       substantial reclamation was on the property and what  
20       satisfactory progress --

21              MR. KUNZLER: I guess I'm confused what you're  
22       considering a substantial reclamation.

23              MR. PAYNE: When was the last time you would  
24       have thought he was making satisfactory progress on  
25       reclamation?

1                   MR. HAAS: Remember you're a boy scout when  
2                   you answer this.

3                   MR. PAYNE: Please, sir.

4                   MR. KUNZLER: I'm trying to think back --

5                   MR. HAAS: Because, what, I got the date right  
6                   here.

7                   MR. PAYNE: I mean, come on, Mr. Haas.

8                   CHAIRMAN JOHNSON: Mr. Kunzler, can you answer  
9                   the question, please?

10                  MR. KUNZLER: Yeah, I'm just trying to --  
11                  re- -- recall in my mind when I would have considered  
12                  that the last substantial amount of reclamation would  
13                  have been done. Probably when he had razed the shop  
14                  buildings and had them removed. Other than that, as I  
15                  say, there had been a little bit of regrading work that  
16                  had taken place in June of 2009.

17                  MR. PAYNE: So that shop razing, I'm looking  
18                  at your notes here, and correct me if I'm wrong, that  
19                  you got an inspection report dated May 9th, 2008, saying  
20                  the office had been razed.

21                  MR. KUNZLER: Yes.

22                  MR. PAYNE: So up to 2008 there was bits and  
23                  starts, perhaps, but there was work being done?

24                  MR. KUNZLER: Yes. There had been some work  
25                  here and there but --

1                   CHAIRMAN JOHNSON: Ms. Lewis, are you finished  
2 with your rebuttal testimony?

3                   MS. LEWIS: We just have one point of  
4 clarification that I'd like to direct to Mr. Baker and  
5 that just regards the delivery of the letter.

6                   MR. BAKER: The -- the letter that we were  
7 talking about earlier where SITLA told Mr. Haas that he  
8 could not enter the property, that was delivered --  
9 we -- we had a stop-work conference at another quarry  
10 and Dana Dean, John Rogers, and I took part in that and  
11 we delivered a copy to him at that time.

12                   It was not an official service or anything  
13 like that, we just happened to have a copy with us and  
14 we gave him that letter. I -- I don't remember  
15 specifically who gave him the letter, but, like I say,  
16 it wasn't official service.

17                   CHAIRMAN JOHNSON: Mr. Gill.

18                   MR. GILL: Are you aware that if a underlying  
19 mineral lease is -- mining lease is -- is terminated,  
20 that you still have the authority to order someone to  
21 enter that property for reclamation purposes prior to  
22 forfeiture of the bond?

23                   MR. BAKER: No. I -- I -- I was -- I am not  
24 aware of that.

25                   CHAIRMAN JOHNSON: Ms. Lewis, anything else?

1 MS. LEWIS: No. That concludes for us.

2 CHAIRMAN JOHNSON: Mr. Haas, is there anything  
3 you would like to discuss regarding rebuttal testimony  
4 of Mr. Kunzler?

5 MR. JENSEN: Mr. Chairman, before you ask that  
6 I think we should follow up on the Division's suggestion  
7 to have Mr. Haas sworn and then to reaffirm --

8 CHAIRMAN JOHNSON: Okay.

9 MR. JENSEN: -- that his prior statements so  
10 that the testimony portion of those statements can be  
11 treated as evidence and then in addition whatever he  
12 might have to say.

13 CHAIRMAN JOHNSON: Okay. Let's get into that  
14 in just -- let's take about a five or ten-minute break  
15 and then, Mr. Haas, we'll get into that, okay?

16 MR. HAAS: Well, I'm going to have to be on a  
17 plane here in 25 minutes. So I -- if you'll take that  
18 into consideration, I would be gracious for that.

19 CHAIRMAN JOHNSON: How long do you need?

20 MR. HAROUNY: Five minutes.

21 CHAIRMAN JOHNSON: Let's take just a quick  
22 five-minute break. If you don't need to leave the room,  
23 please don't leave the room. Okay?

24 (Recess taken.)

25 CHAIRMAN JOHNSON: All right. Let's go back



1           on the record.

2                   Mr. Haas, would you -- would you like to talk  
3           about the rebuttal testimony that was offered by  
4           Mr. Kunzler? And before I do that, if you'd like to, we  
5           would like to swear you in --

6                   MR. HAAS: Okay.

7                   CHAIRMAN JOHNSON: -- to make sure that  
8           you're -- what you offer today is treated by the board  
9           as testimony and weighed as testimony. Okay? So,  
10          please, let's swear you in.

11                   BRYCE HAAS,  
12          called as a witness on behalf of the Division, being  
13          duly sworn, was examined and testified as follows:

14                   MR. HAAS: Yes.

15                   CHAIRMAN JOHNSON: And you -- I think you  
16          affirmed a little earlier that all the testimony that  
17          you've offered today has been truthful as if you had  
18          been under oath before.

19                   MR. HAAS: Yes. Correct.

20                   CHAIRMAN JOHNSON: So the board can weigh that  
21          all as testimony?

22                   MR. HAAS: Yes.

23                   CHAIRMAN JOHNSON: So please -- please, go  
24          ahead.

25                   MR. HAAS: The reason the reclamation had come

1 to an end on the B&C Limestone Quarry was because I have  
2 a 115 Kawasaki loader, okay? With the economic  
3 downturn, we were unable to find tires. I was on a  
4 waiting list for six months. There was a brief  
5 intermission there that we weren't able to quarry  
6 because we did not have tires for this machine. We  
7 looked high and low. I located some used tires and we  
8 went through this on the previous quarry because I wiped  
9 out two 10,000-dollar tires on the previous quarry  
10 reclamation. And that took away my reserve tires, okay?

11 These guys were present, John Blake and Lynn  
12 Kunzler saw the tires, saw that they were no longer able  
13 to be ran. They were at the base of the quarry when we  
14 pulled off that and they said, "Hey, look, here we are,  
15 guys. You're good." Okay. I went over to the Fayette  
16 Quarry and lost the tires reclaiming the upper north  
17 half of that.

18 So when he makes a statement that says little  
19 or none has been reclaimed, the whole upper end of that  
20 quarry's been reclaimed. There is a strip down through  
21 the middle and while I was under repairs, he came down  
22 and we -- we walked out. We didn't measure anything.  
23 We walked out and said, "Okay. This is how many feet by  
24 how many feet." We both came to an estimate of five  
25 acres down through the middle that needed to be

1       regraded.

2               We walked around the buildings that had been  
3       taken down, the concrete slab is still there, all that  
4       property was flat just the way it was when I moved in  
5       there. That's why I put the building there. So there's  
6       only a little bit of regrading that has to be done. The  
7       concrete has to be removed. Okay.

8               There was an additional two acres there.  
9       There was an acre and a half around the -- around the  
10      cement pad that still had stone there stacked on it that  
11      was for sale. Okay. We took in another half an acre  
12      for the line that went up the hill, that you've seen in  
13      the videotape here of the water systems that fed those  
14      saws.

15              So, you know, I'm -- I'm going to say that,  
16      you know, if you can't see there's been substantial  
17      reclamation done on the top end of that quarry, I'm  
18      going to suggest you go get you a pair of glasses.

19              CHAIRMAN JOHNSON: By the top end, do you mean  
20      the north end?

21              MR. HAAS: The north end.

22              CHAIRMAN JOHNSON: Okay.

23              MR. HAAS: Because that whole north end got  
24      reclamated in this -- in this transition period that  
25      they're talking about and when the transmission

1       period -- when the 45 days came last, we were still  
2       waiting for tires to go back in and take care of that.  
3       And that's why my equipment was staged across the street  
4       on a personal piece of property I own. Because we had  
5       no place to go. We couldn't load it, we couldn't  
6       transport it, we couldn't do anything.

7               So, you know, there was a substantial amount.  
8       When you move more than an acre of dirt, I'm saying  
9       that's pretty substantial. When you move the kind of  
10      overburden that's been moved up there on that hill, a  
11      pebble, would say that, you know, you're at least making  
12      an effort, because I'll be the first one to admit it's a  
13      hole in the ground. I'm not -- I'm not contesting that.

14             But when they contest that there's still 16  
15      acres here that needs to be reclamated, I think we need  
16      to go back to a previous conversation that when the  
17      seismograph work was done on that quarry and they  
18      brought their seismograph equipment across that quarry  
19      and did \$30,000 worth of damage to the reclamation and  
20      all the seed that -- you know, that was never taken into  
21      consideration either and now they're coming up with all  
22      this different stuff here that has grown the acreage  
23      from, basically, 6 acres to 16.

24             And I'm not -- I'm not figuring how that is  
25      because that -- that area was regraded and passed off

1       when they came in and mowed across it and you can see  
2       right where they are and right where they've been. And  
3       you can see that today.

4               CHAIRMAN JOHNSON: Okay.

5               MR. HAAS: I haven't been permitted to go on  
6       the property to take pictures of what's been done and  
7       what hasn't been done to submit anything in formal  
8       writing or pictures to this board. I haven't been  
9       permitted on the property. I can't come to you and say,  
10      "Hey, you know, here I am. Here's my pictures. This is  
11      what I've regraded. This is what I need to regrade.  
12      This is what I've removed. This is what I haven't  
13      removed," because I haven't been permitted to the  
14      property.

15              CHAIRMAN JOHNSON: Do you have any -- any kind  
16      of evidence regarding this seismic work that you talked  
17      about, Mr. Haas? I know you said you haven't been able  
18      to take pictures of it. Do you have --

19              MR. HAAS: Yes, I have -- I have pictures. I  
20      have pictures in my files. I need time to go through  
21      them. I'm currently, you know, living out of state and  
22      I -- you know, I can provide those to the board, yes.

23              CHAIRMAN JOHNSON: Mr. Quigley.

24              MR. QUIGLEY: Mr. Haas, is your equipment  
25      still available in this area?

1           MR. HAAS: I -- I cannot -- well, yes, it is  
2 but I cannot reclamate this quarry. I want these guys  
3 to -- to get home today and we'll address some other  
4 issues that need to happen here. You know, if they're  
5 willing -- if they're willing to take the 36,000-dollar  
6 bond and call it a day, you're going to have no argument  
7 out of me but I think it's pretty clear, you know,  
8 what -- what's gone on here today.

9           And, you know, I'm -- I'm -- I'm beside  
10 myself. I fall under the America's Disability Act and  
11 you guys have nothing but shove me around. And I don't  
12 mean you guys. I'm talking SITLA. They've shoved me  
13 around for ten years.

14          MR. QUIGLEY: Okay. My next question is is  
15 the slabs that you have cut on the property, do they  
16 have any value?

17          MR. HAAS: Yes, they do. And if I could  
18 access those -- access those slabs, I would have had a  
19 30,000-dollar sale on that material to finish the  
20 reclamation. But all of sudden I got a cog thrown in it  
21 and there I sat.

22          MR. QUIGLEY: So you think the value of that  
23 cut stone there is in the neighborhood of \$30,000?

24          MR. HAAS: Absolutely.

25          MR. QUIGLEY: Thank you.

1 MR. PAYNE: Can I clarify?

2 CHAIRMAN JOHNSON: Mr. Payne.

3 MR. PAYNE: So, Mr. Haas, you -- you have  
4 no -- let me get it straight. You have no desire  
5 necessarily to go back on this property at this point  
6 and do the reclamation?

7 MR. HAAS: I cannot. I've moved on in life.  
8 I'm here to try to, you know, get this thing handled and  
9 straightened around here today but I'm -- I'm working in  
10 Canada. I'm working in the oil sands in Canada and, you  
11 know, I'm currently stationed in North Dakota. But I'm  
12 back and forth across the border and I'm -- you know,  
13 the majority of my work is in North Dakota.

14 MR. PAYNE: Well, let me just --

15 CHAIRMAN JOHNSON: Can I just clarify?

16 MR. PAYNE: Yeah. Clarify.

17 CHAIRMAN JOHNSON: Mr. Haas, when Mr. Payne  
18 said, though, that you have no desire to go back on the  
19 property and you said you didn't, you're not including,  
20 though, the cut stone that's already there. You would  
21 still like that cut stone I'm assuming?

22 MR. HAAS: I would like the cut stone and the  
23 remainder of my property that -- that lies on that.

24 CHAIRMAN JOHNSON: I just wanted to make sure  
25 you weren't saying you --

1 MR. HAAS: Yes.

2 CHAIRMAN JOHNSON: Okay.

3 MR. HAAS: I have never abandoned my  
4 equipment.

5 CHAIRMAN JOHNSON: Mr. Payne.

6 MR. PAYNE: Just one other question to  
7 clarify. So Mr. Blake's got a chronology and you do  
8 have a copy of Mr. Blake's chronology there. Do you  
9 have any recollection of any other contacts you had made  
10 requesting access to the property other than those  
11 listed that -- in order to do the reclamation work?

12 MR. BAKER: Could you point out the ones so  
13 that we can --

14 MR. PAYNE: So Mr. -- Mr. Blake's summary  
15 shows that the contact in May of 2010, but nothing  
16 between, I think it was, June -- just tell me if there's  
17 been any other requests to be on the property other than  
18 those listed, and -- since June 2009.

19 MR. HAAS: No, I don't believe there was.

20 MR. PAYNE: Just -- okay. The one request in  
21 May?

22 MR. HAAS: I was told not to enter. Not only  
23 that, but when I was told not to enter, they went down  
24 there and put a lock on the gate. They put their lock  
25 on the gate. They painted yellow and orange all over



1 the gate and hung a no trespassing sign there. And I  
2 don't know what kind of -- what kind of, you know,  
3 conviction trespassing has to do in this state but, you  
4 know, when it's -- when it's chained out and locked and  
5 there's -- there's a sign there that, obviously, says,  
6 "Do not enter."

7 MR. PAYNE: Yeah. I don't expect you to go on  
8 the property. I'm just asking if you had any other  
9 attempts at trying to get access and I appreciate your  
10 answer.

11 Thank you. I'm done, Mr. Chairman.

12 CHAIRMAN JOHNSON: Okay. Mr. Harouny.

13 MR. HAROUNY: Mr. Haas, during your  
14 conversations with either Mr. Blake or counselor, did  
15 you have a work schedule or did you submit a -- a plan  
16 to them either verbally or -- or a written plan of  
17 reclamation?

18 MR. HAAS: Yes, I did.

19 MR. HAROUNY: And did you keep up with that  
20 plan, all the steps within that plan and the timeline  
21 associated?

22 MR. HAAS: No. I can't control forces out of  
23 my -- out of my hands. You know, everything that turns  
24 to right in this life wears out. And when you have  
25 equipment problems, you know, there's not much you can

1 do. But I'm going to answer that question so you have a  
2 clear, firm, that, no, I did not due to equipment  
3 failures.

4 MR. HAROUNY: So the -- in your estimation, if  
5 you didn't have equipment failures or any other things  
6 that you cannot control, how long would it take you to  
7 complete that plan?

8 MR. HAAS: Five weeks. That's the reclamation  
9 of the well, you know, it's going to have to be filled  
10 full of concrete. All of the concrete's going to have  
11 to be hauled on and in dumps, you know, and to get to  
12 where it's ready to be reseeded. You know, you're  
13 looking at four to five weeks worth of work.

14 MR. HAROUNY: So you've been given two  
15 extensions to the tune of one year each, a 30-day  
16 extension, a 45-day extension to complete a five-week  
17 work.

18 MR. HAAS: Well, we're talking -- we're  
19 talking on what -- what the acreage is today. And  
20 they're in discrepancy. The acreage was quite a bit  
21 more than that when I -- when I went in and started  
22 reclaiming.

23 MR. HAROUNY: Okay.

24 MR. HAAS: But the current -- the current  
25 date, what I'm telling you, today's date, the way it

1 sits today, it's four or five -- four or five weeks  
2 worth of work, and you're probably looking, you know,  
3 two and a half -- two-and-a-half to three weeks just in  
4 dirt work. But to find somebody with trucks, they can  
5 haul, find a disposal site for the concrete, get a third  
6 party in there to fill the -- fill the well and get  
7 it -- get the water division out to make sure it's done  
8 to their specifications. I don't know what their  
9 timeline is.

10 MR. HAROUNY: Do you realize that there may  
11 very well be a substantial deficiency in the amount  
12 that's needed to reclaim this site maybe?

13 MR. HAAS: Well, you know, that's an  
14 interesting case you bring up because these guys have  
15 had six months to put together a portfolio of what it  
16 was actually going to take. And I've asked five times  
17 to get it and here we stand here today and we still  
18 don't have a hard number.

19 I mean, that's -- I mean, is the Division not  
20 responsible, when the operator makes a request, to come  
21 out, GPS the location, say, "This is how much we have.  
22 This is what we have to do, this is the dollar amount  
23 that you're either going to need to come up with or  
24 you're going to have to reclamate inside this dollar  
25 amount"? I've asked five times and all five times they

1       said that this -- this board right here was going to,  
2       you know, straighten all that out. And now all of a  
3       sudden we've grown -- grown the project from 5 acres to  
4       16, I guess, it is if I recollect it right.

5               MR. HAROUNY: And your previous work in this  
6       area, what was the average per-acre reclamation cost to  
7       you?

8               MR. HAAS: Um --

9               MR. HAROUNY: I realize you used some of your  
10      own equipment, et cetera, et cetera.

11              MR. HAAS: I'm -- I'm going to say -- you  
12      know, I'd -- I'd have to look because I don't know how  
13      much diesel fuel is used versus how many breakdowns.  
14      All those are computed into the number per acre. I'm --  
15      I'm going to guess, and this is merely a guess, I'm  
16      going to guess about \$3,000 per acre.

17              That's -- that's my guess, my cost. You won't  
18      get it done from somebody else for 3,000 an acre.

19              MR. HAROUNY: Okay. Thank you.

20              MR. HAAS: Even -- even though we're in a  
21      starving economy and people want to do things for  
22      pennies on the dollar.

23              MR. HAROUNY: Thank you.

24              CHAIRMAN JOHNSON: Mr. Jensen.

25              MR. JENSEN: Mr. Haas, you -- you made

1 reference to your equipment. What is the equipment  
2 that's left on site that is yours?

3 MR. HAAS: Well, there's some slab racks.  
4 There's some processed stone there. There is a  
5 10,000-gallon water tank. There's -- let me think here.  
6 There's a 5,000-gallon waste tank. When we had an  
7 office there we -- we ran all our wastewater, everything  
8 into the tank. The guy come out from Valley Tank  
9 Services and would pump that tank for, you know, toilet  
10 accessories and, you know, hand washing and showers and  
11 all that went into it -- went into a tank.

12 There's another 5,000-gallon tank there and  
13 there's another three 1,000-gallon tanks that are hooked  
14 to the 10,000-gallon tank on the hill. And then there's  
15 a 1,000-gallon tank stuck over the well. We had to keep  
16 it from freezing.

17 MR. JENSEN: Do those have -- do those have  
18 value other than salvage value today?

19 MR. HAAS: You bet. In the oil field all day  
20 long. Everybody wants a water tank.

21 MR. JENSEN: All right. And then, again, just  
22 so it's clear, you -- you do not have any intention of  
23 going back on the property or doing the reclamation?

24 MR. HAAS: Well, I -- I -- I never abandoned  
25 what I have. You know, I would like to get my -- you

1 know, the things that I own back. I mean, there's a  
2 couple of slab racks there and these tanks.

3 MR. JENSEN: That wasn't my question. My  
4 question was you -- you're not prepared to go -- go  
5 reclaim the property.

6 MR. HAAS: I am not. Not at this time, no.

7 MR. JENSEN: Okay. Thank you.

8 CHAIRMAN JOHNSON: Mr. Quigley.

9 MR. QUIGLEY: Mr. Haas, I just want to -- I  
10 just want to emphasize a point that Mr. Harouny made.  
11 You're saying that you're not willing or ready to go  
12 back and reclaim this property. And are you saying that  
13 with the understanding that -- that the reclamation  
14 costs could substantially exceed the \$36,000 that is a  
15 available in a letter of credit -- well, not in a letter  
16 of credit but now in an escrow account, and that you  
17 might by -- by doing that you may undertake the  
18 obligation for those excess costs? I don't know how  
19 that will work but --

20 MR. HAAS: Well, you know what, I've lost  
21 everything in life right to this day so what do I have  
22 to lose?

23 MR. QUIGLEY: Okay. All right.

24 MR. HAAS: I mean, you guys can sue me for the  
25 deficiency, you know. I -- I don't see where there's a

1       deficiency. You haven't -- you haven't given me my  
2       right to enter the property to make an assessment for  
3       myself or make a third-party assessment so I think right  
4       there that, you know, I at least ought to have the  
5       opportunity before any money gets disbursed anywhere,  
6       and if -- if I can go in there and hire a contractor to  
7       do it for \$36,000 or less, I would like to leave that in  
8       reserve. But me, myself, I cannot go perform the --  
9       perform the work with my equipment.

10               MR. QUIGLEY: Okay. Thank you.

11               CHAIRMAN JOHNSON: Any other questions from  
12       the board?

13               Okay. Does either party have anything else  
14       they would like to address to the board regarding this  
15       matter?

16               MS. LEWIS: No, not at this time.

17               CHAIRMAN JOHNSON: Mr. Haas?

18               MR. HAAS: (Shakes head.)

19               CHAIRMAN JOHNSON: Okay. Is there anyone else  
20       present that would like to address the board regarding  
21       this matter?

22               Okay. Mr. Haas, you said you were under a  
23       time constraint and I hope we haven't caused you a  
24       problem there but the board is going to take this matter  
25       under advisement and make a decision on it and notify

1       you and -- and the Division as soon as we can but we're  
2       not going to deliberate on it at this point in time. So  
3       if you can still make your appointment, you're free to  
4       leave. Okay?

5               MR. HAAS: And when will you make that  
6       determination?

7               CHAIRMAN JOHNSON: Within ten days. Is  
8       there --

9               MR. JENSEN: However long you guys want.

10              CHAIRMAN JOHNSON: We will try to get you an  
11       answer within ten days and I don't see any reason why we  
12       can't do that. Is that satisfactory to both parties?

13              MS. LEWIS: Yes.

14              CHAIRMAN JOHNSON: Okay. All right. Then  
15       let's take a ten-minute break and we will get set up for  
16       the -- the next matter, which will be the second matter  
17       on the agenda, I believe, the GENWAL. Okay?

18              So thank you. And we'll go off the record.

19              (PROCEEDINGS IN THE ABOVE-ENTITLED

20                       MATTER WERE CONCLUDED.)



REPORTER'S CERTIFICATE

STATE OF UTAH                    )  
  :    SS.  
COUNTY OF UTAH                )

I, Jeff S. Eaton, do certify that I am a  
Certified Court Reporter in and for the State of Utah.

That as such reporter, I reported the occasion  
of the proceedings of the above-entitled matter at the  
aforesaid time and place.

That the proceeding was reported by me in  
stenotype using computer-aided transcription consisting  
of pages 3 through 96 inclusive;

That the same constitutes a true and correct  
transcription of the said proceedings;

That I am not of kin or otherwise associated  
with any of the parties herein or their counsel, and  
that I am not interested in the events thereof.

WITNESS my hand at Provo, Utah, this 3rd day  
of February, 2011.

-----  
Jeff S. Eaton, RPR, CSR